

**House File 258 - Introduced**

HOUSE FILE 258

BY PETTENGILL

**A BILL FOR**

1 An Act relating to mechanic's liens and the mechanics' notice  
2 and lien registry.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 572.8, subsection 1, paragraphs b and e,  
2 Code 2013, are amended to read as follows:

3 b. The legal description ~~of~~ that accurately describes the  
4 property to be charged with the lien.

5 e. The ~~tax~~ parcel identification number required by law to  
6 be assigned to the property for real estate tax administration  
7 purposes.

8 Sec. 2. Section 572.11, Code 2013, is amended to read as  
9 follows:

10 **572.11 Extent of lien posted after ninety days.**

11 Liens perfected under section 572.10 shall be enforced  
12 against the property or upon the bond, if given, by the owner  
13 or by the owner-builder's buyer, only to the extent of the  
14 balance due from the owner to the general contractor or from  
15 the owner-builder's buyer to the owner-builder at the time of  
16 the service of such notice; but if the bond was given by the  
17 general contractor or owner-builder, or person contracting with  
18 the subcontractor ~~filing~~ posting the claim for a lien, such  
19 bond shall be enforced to the full extent of the amount found  
20 due the subcontractor.

21 Sec. 3. Section 572.13A, subsections 1 and 2, Code 2013, are  
22 amended to read as follows:

23 1. A general contractor, or owner-builder who has  
24 contracted or will contract with a subcontractor to provide  
25 labor or furnish material for the property, shall post a  
26 notice of commencement of work to the mechanics' notice and  
27 lien registry internet website ~~within~~ no later than ten days  
28 ~~of~~ after the commencement of work on the property. A notice  
29 of commencement of work is effective only as to any labor,  
30 service, equipment, or material furnished to the property  
31 subsequent to the posting of the notice of commencement of  
32 work. A notice of commencement of work shall include all of  
33 the following information:

34 a. The name and address of the owner.

35 b. The name, address, and telephone number of the general

1 contractor or owner-builder.

2 *c.* The address of the property or a description of the  
3 location of the property if the property cannot be reasonably  
4 identified by an address.

5 *d.* The legal description ~~of~~ that accurately describes the  
6 property to be charged with the lien.

7 *e.* The date work commenced.

8 *f.* The ~~tax~~ parcel identification number required by law to  
9 be assigned to the property for real estate tax administration  
10 purposes.

11 *g.* Any other information prescribed by the administrator  
12 pursuant to rule.

13 2. If a general contractor or owner-builder fails to  
14 post the required notice of commencement of work to the  
15 mechanics' notice and lien registry internet website pursuant  
16 to subsection 1, ~~within~~ no later than ten days ~~of~~ after the  
17 commencement of the work on the property, a subcontractor may  
18 post the notice in conjunction with the ~~filing~~ posting of the  
19 required preliminary notice pursuant to section 572.13B. A  
20 notice of commencement of work must be posted to the mechanics'  
21 notice and lien registry internet website before preliminary  
22 notices pursuant to section 572.13B may be posted.

23 Sec. 4. Section 572.13A, subsection 3, paragraph c, Code  
24 2013, is amended to read as follows:

25 *c.* The notice described in subsection 1 shall be sent to  
26 the owner's address as posted to the mechanics' notice and  
27 lien registry by the general contractor, owner-builder, or  
28 subcontractor. ~~If the owner's address is different than the~~  
29 ~~property address, a copy of the notice shall also be sent to~~  
30 ~~the property address, addressed to the owner.~~

31 Sec. 5. Section 572.13A, subsection 3, Code 2013, is amended  
32 by adding the following new paragraph:

33 NEW PARAGRAPH. *d.* Notices under this section shall not be  
34 sent to owner-builders.

35 Sec. 6. Section 572.13B, subsection 1, paragraphs g and i,

1 Code 2013, are amended to read as follows:

2 *g.* The legal description ~~of~~ that accurately describes the  
3 property to be charged with the lien.

4 *i.* The ~~tax~~ parcel identification number required by law to  
5 be assigned to the property for real estate tax administration  
6 purposes.

7 Sec. 7. Section 572.13B, subsection 2, Code 2013, is amended  
8 to read as follows:

9 2. At the time a preliminary notice is posted to the  
10 mechanics' notice and lien registry, the administrator shall  
11 send notification to the owner, including the owner notice  
12 described in section 572.13, subsection 1, and shall ~~docket~~  
13 post the mailing of the notice on the mechanics' notice and  
14 lien registry as prescribed by the administrator pursuant  
15 to rule. Notices under this section shall not be sent to  
16 owner-builders. Upon request, the administrator shall provide  
17 ~~an affidavit of mailing~~ proof of service at no cost for the  
18 notice required under this section.

19 Sec. 8. Section 572.15, Code 2013, is amended to read as  
20 follows:

21 **572.15 Discharge of mechanic's lien — bond.**

22 A mechanic's lien may be discharged at any time by submitting  
23 a bond to the administrator in twice the amount of the sum  
24 for which the claim for the lien is ~~filed~~ posted, with surety  
25 or sureties, to be approved by the administrator, conditioned  
26 for the payment of any sum for which the claimant may obtain  
27 judgment upon the claim.

28 Sec. 9. Section 572.19, Code 2013, is amended to read as  
29 follows:

30 **572.19 Priority over garnishments of the owner.**

31 Mechanics' liens shall take priority ~~of~~ over all  
32 garnishments of the owner for the contract debts, whether made  
33 prior or subsequent to the commencement of the furnishing of  
34 the material or performance of the labor, without regard to the  
35 date of ~~filing~~ posting the claim for such lien.

1     Sec. 10. Section 572.22, unnumbered paragraph 1, Code 2013,  
2 is amended to read as follows:

3     ~~The administrator shall endorse upon every claim for a~~  
4 ~~mechanic's lien posted to the mechanics' notice and lien~~  
5 ~~registry internet website the date and hour of posting.~~

6 Each claim posted to the mechanics' notice and lien registry  
7 internet website shall be properly indexed and shall contain  
8 the following items:

9     Sec. 11. Section 572.22, subsections 5 and 6, Code 2013, are  
10 amended to read as follows:

11     5. The legal description ~~of~~ that accurately describes the  
12 property to be charged with the lien.

13     6. The ~~tax~~ parcel identification number ~~of the property to~~  
14 ~~be charged~~ required by law to be assigned to the property for  
15 real estate tax administration purposes.

16     Sec. 12. Section 572.23, Code 2013, is amended to read as  
17 follows:

18     **572.23 Acknowledgment of satisfaction of claim.**

19     1. When a mechanic's lien is satisfied by payment of the  
20 claim, the claimant shall acknowledge post to the mechanics'  
21 notice and lien registry an acknowledgment of satisfaction  
22 ~~thereof of claim~~ and, if the claimant neglects to do so for  
23 thirty days after demand in writing is personally served upon  
24 the claimant, the claimant shall forfeit and pay twenty-five  
25 dollars to the owner, general contractor, or owner-builder and  
26 be liable to any person injured to the extent of the injury.

27     2. If ~~satisfaction is not acknowledged~~ an acknowledgment of  
28 satisfaction of claim is not posted to the mechanics' notice  
29 and lien registry within thirty days after service of the  
30 demand in writing, the party serving the demand or causing the  
31 demand to be served may ~~file for record with the administrator~~  
32 post to the mechanics' notice and lien registry a copy of  
33 the demand with proofs of service attached and endorsed and,  
34 in case of service by publication, a personal affidavit that  
35 personal service could not be made within this state. Upon

1 completion of the requirements of this subsection, the ~~record~~  
2 posting shall be constructive notice to all parties of the  
3 due forfeiture and cancellation of the lien. Upon the ~~filing~~  
4 posting of the demand with the required attachments, the  
5 administrator shall mail a date-stamped copy of the demand to  
6 both parties.

7 Sec. 13. NEW SECTION. **572.23A Partial satisfaction of money**  
8 **debt after posting notice.**

9 1. A general contractor or subcontractor shall post an  
10 acknowledgment of partial satisfaction of a money debt to the  
11 mechanics' notice and lien registry for material, labor, and  
12 equipment furnished by the general contractor or subcontractor.

13 2. If an acknowledgment of partial satisfaction pursuant  
14 to subsection 1 is not posted to the mechanic's notice and  
15 lien registry within thirty days after receipt of written  
16 demand from the owner, general contractor, or owner-builder,  
17 the owner, general contractor, or owner-builder may post an  
18 acknowledgment of partial satisfaction of the money debt and a  
19 copy of the written demand to the mechanics' notice and lien  
20 registry.

21 3. This section applies in situations where the required  
22 notices pursuant to sections 572.13A and 572.13B have been  
23 posted to the mechanics' notice and lien registry but a  
24 mechanic's lien has not been posted.

25 Sec. 14. Section 572.28, subsection 1, Code 2013, is amended  
26 to read as follows:

27 1. Upon the written demand of the owner served on the  
28 ~~lienholder~~ claimant requiring the ~~lienholder~~ claimant to  
29 commence action to enforce the lien, such action shall be  
30 commenced within thirty days thereafter, or the lien and all  
31 benefits derived therefrom shall be forfeited.

32 Sec. 15. Section 572.30, subsection 2, Code 2013, is amended  
33 to read as follows:

34 2. Within fifteen days after receiving notice of nonpayment  
35 the general contractor or owner-builder gives a bond ~~or makes~~

1 ~~a deposit with the administrator~~, in an amount not less than  
2 the amount necessary to satisfy the nonpayment for which notice  
3 has been given under this section, and in a form approved  
4 by ~~a judge of the district court~~ the administrator, to hold  
5 harmless the owner or person having the improvement made from  
6 any claim for payment of anyone furnishing labor or material  
7 for the improvement, other than the general contractor or  
8 owner-builder.

9 Sec. 16. Section 572.31, Code 2013, is amended to read as  
10 follows:

11 **572.31 Cooperative and condominium housing.**

12 A lien arising under this chapter as a result of the  
13 construction of an apartment house or apartment building which  
14 is owned on a cooperative basis under chapter 499A, or which is  
15 submitted to a horizontal property regime under chapter 499B,  
16 is not enforceable, notwithstanding any contrary provision of  
17 this chapter, as against the interests of an owner in a unit  
18 contained in the apartment house or apartment building acquired  
19 in good faith and for valuable consideration, unless a lien  
20 statement specifically describing the unit is ~~filed~~ posted  
21 under section 572.8 within the applicable time period specified  
22 in section 572.9, but determined from the date on which the  
23 last of the material was supplied or the last of the labor was  
24 performed in the construction of that unit.

25 Sec. 17. Section 572.33A, Code 2013, is amended to read as  
26 follows:

27 **572.33A Liability of owner to general contractor —**  
28 **commercial construction.**

29 1. An owner of a building, land, or improvement upon which  
30 a mechanic's lien of a subcontractor may be ~~filed~~ posted, is  
31 not required to pay the general contractor for compensation  
32 for work done or material furnished for the building, land,  
33 or improvement until the expiration of ninety days after the  
34 completion of the building or improvement unless the general  
35 contractor furnishes to the owner one of the following:

1 ~~1.~~ a. Receipts and waivers of claims for mechanics' liens,  
2 signed by all persons who furnished material or performed labor  
3 for the building, land, or improvement.

4 ~~2.~~ b. A good and sufficient bond to be approved by the  
5 owner, conditioned that the owner shall be held harmless from  
6 any loss which the owner may sustain by reason of the ~~filing~~  
7 posting of mechanics' liens by subcontractors.

8 2. This section applies only to commercial construction  
9 properties.

10 Sec. 18. Section 572.34, Code 2013, is amended to read as  
11 follows:

12 **572.34 Mechanics' notice and lien registry — ~~residential~~**  
13 **construction.**

14 1. A mechanics' notice and lien registry is created and  
15 shall be administered by the administrator. The administrator  
16 shall adopt rules pursuant to chapter 17A for the creation and  
17 administration of the registry.

18 2. The mechanics' notice and lien registry shall be  
19 accessible to the general public through the administrator's  
20 internet website.

21 3. a. The administrator shall index the legal descriptions  
22 of the properties for which notices and liens are posted to  
23 the registry. For the purpose of performing a search of the  
24 registry the legal description shall be the controlling index  
25 category.

26 b. The registry shall be indexed by owner name, general  
27 contractor name, mechanics' notice and lien registry number,  
28 property address, legal description, ~~tax~~ parcel identification  
29 number required by law to be assigned to the property for real  
30 estate tax administration purposes, and any other identifier  
31 considered appropriate as determined by the administrator  
32 pursuant to rule.

33 4. ~~A general contractor, owner-builder, or subcontractor~~  
34 Any person who posts fictitious, forged, or false information  
35 to the mechanics' notice and lien registry shall be subject

1 to a penalty as determined by the administrator by rule in  
2 addition to all other penalties and remedies available under  
3 applicable law.

4 5. A person may post a correction statement with respect  
5 to a record indexed ~~in~~ on the mechanics' notice and lien  
6 registry internet website if the person believes the record is  
7 inaccurate or wrongfully posted.

8 6. The administrator shall charge and collect fees as  
9 established by rule necessary for the administration and  
10 maintenance of the registry and the registry's internet  
11 website. The administrator shall not charge a filing posting  
12 fee for a preliminary notice required pursuant to this chapter  
13 that exceeds the cost of sending such notice by certified mail  
14 with restricted delivery and return receipt. The administrator  
15 shall not charge a filing posting fee for a mechanic's lien  
16 that exceeds forty dollars.

17 7. Notices ~~may~~ shall be posted to the mechanics' notice and  
18 lien registry electronically on the administrator's internet  
19 website, ~~or may be sent to the administrator for posting~~  
20 ~~by United States mail or facsimile transmission, or other~~  
21 ~~alternate method as provided by the administrator pursuant to~~  
22 ~~rule. Notices received by United States mail or facsimile~~  
23 ~~transmission shall be posted by the administrator to the~~  
24 ~~mechanics' notice and lien registry within three business days~~  
25 ~~of receipt.~~

26 8. Mechanics' liens ~~may~~ shall be posted to the mechanics'  
27 notice and lien registry electronically on the administrator's  
28 internet website ~~or may be sent to the administrator for~~  
29 ~~posting by United States mail. Liens received by United States~~  
30 ~~mail shall be posted by the administrator to the mechanics'~~  
31 ~~notice and lien registry within three business days of receipt.~~

32 9. ~~The administrator shall send a receipt acknowledging a~~  
33 ~~notice or lien submitted by United States mail or facsimile~~  
34 ~~transmission, as provided by the administrator by rule.~~

35 9. The posting of a notice or a lien to the mechanics'

1 notice and lien registry internet website pursuant to this  
2 chapter, along with the tender of the requisite filing fees and  
3 the sending of an acknowledgment receipt by the administrator,  
4 is equivalent to a filing and recording of the appropriate  
5 notice or lien in the county in which the real estate is  
6 located.

7 10. Information collected by and furnished to the  
8 administrator in conjunction with the submission and posting of  
9 notices pursuant to sections 572.13A and 572.13B shall be used  
10 by the administrator solely for the purposes of the mechanics'  
11 notice and lien registry.

12 11. Registration under chapter 91C shall not be required in  
13 order to post a notice or a lien under this chapter.

14 12. A preliminary notice that remains posted on the  
15 mechanics' notice and lien registry internet website two  
16 years after the date of posting shall be declared inactive by  
17 the administrator, unless renewed. A notice of commencement  
18 of work, if there are no related active postings, shall be  
19 declared inactive two years from the date of posting, unless  
20 renewed. The administrator shall establish a process for the  
21 removal of inactive notices and for the renewal of notices  
22 pursuant to rule.

23 ~~12.~~ 13. The administrator shall make, or cause to be made,  
24 preservation duplicates of mechanics' notice and lien registry  
25 records, including records stored in a computer database. Any  
26 preservation duplicate record shall be accurate, complete, and  
27 clear, and shall be made, preserved, and made accessible to the  
28 public by means designated by the administrator by rule.

29

#### EXPLANATION

30 This bill makes conforming language corrections relating  
31 to the posting of precommencement and preliminary notices and  
32 mechanic's liens on the mechanics' notice and lien registry  
33 (registry) and related civil enforcement actions, to be  
34 consistent with changes made in HF 675 (2012).

35 The bill also amends provisions relating to certain property

1 information required for precommencement and preliminary  
2 notices.

3 The bill specifies that general contractors and  
4 owner-builders do not have to send precommencement notices to  
5 owner-builders.

6 The bill requires the administrator (secretary of state) to  
7 provide proof of service for notices posted on the registry and  
8 eliminates the requirement that the administrator endorse every  
9 claim for a mechanic's lien posted on the registry.

10 The bill specifies that each claim posted to the  
11 registry internet website shall be properly indexed by the  
12 administrator, and shall include items including the name  
13 of the person who posted the claim, the date and hour of  
14 the posting, and the amount of the claim. The bill makes  
15 changes to the registry indexing requirements and requires the  
16 administrator to index the legal descriptions of the properties  
17 for which notices and liens are posted to the registry.

18 The bill provides that when a mechanic's lien is satisfied  
19 by payment of the claim, the claimant must acknowledge  
20 satisfaction by posting an acknowledgment of the satisfaction  
21 to the registry. If such an acknowledgment is not posted to  
22 the registry within 30 days after service of the demand in  
23 writing, the party serving the demand may post a copy of the  
24 demand to the registry.

25 The bill provides that a general contractor or subcontractor  
26 shall post an acknowledgment of partial satisfaction of a money  
27 debt to the mechanics' notice and lien registry for material,  
28 labor, and equipment furnished by the general contractor or  
29 subcontractor. If an acknowledgment of partial satisfaction  
30 is not posted to the registry within 30 days after receipt  
31 of written demand from the owner, general contractor, or  
32 owner-builder, the owner, general contractor, or owner-builder  
33 may post an acknowledgment of partial satisfaction of the money  
34 debt and a copy of the written demand to the mechanics' notice  
35 and lien registry. This provision applies in situations where

1 the required notices pursuant to Code sections 572.13A and  
2 572.13B have been posted to the mechanics' notice and lien  
3 registry but a mechanic's lien has not been posted.

4 The bill provides that in a civil action by a subcontractor  
5 or owner against a general contractor or owner-builder, a  
6 bond given by a general contractor or owner-builder shall be  
7 approved by the administrator instead of the court.

8 The bill provides that the posting by any person of  
9 fictitious, forged, or false information to the registry is  
10 subject to a penalty as determined by the administrator.

11 The bill provides that precommencement and preliminary  
12 notices and mechanic's liens shall be posted to the mechanics'  
13 notice and lien registry electronically on the administrator's  
14 internet website.

15 The bill provides that the posting of a notice or a lien  
16 to the mechanics' notice and lien registry internet website  
17 along with the requisite filing fees and the sending of an  
18 acknowledgment receipt by the administrator is equivalent to a  
19 filing and recording of the appropriate notice or lien in the  
20 county in which the real estate is located.

21 The bill provides that a preliminary notice that remains  
22 posted on the mechanics' notice and lien registry internet  
23 website two years after the date of posting shall be declared  
24 inactive by the administrator, unless renewed. A commencement  
25 of work, if there are no related active postings, shall be  
26 declared inactive two years from the date of posting, unless  
27 renewed. The administrator is also required to establish a  
28 process for the removal of inactive notices and for the renewal  
29 of notices pursuant to rule.