

CHAPTER 186
MECHANICS LIENS

H. F. 767

AN ACT relating to the satisfaction of debts owed to the holders of mechanic's liens, and providing that the lien of a subcontractor is not enforceable against an owner-occupied dwelling except to the extent of the amount owed to the principal contractor at the time the subcontractor serves a written notice of the claim on the owner, and providing that a subcontractor may be awarded exemplary damages from the principal contractor.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 572.1, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Owner-occupied dwelling" means the homestead of an owner, as defined in section 561.1, and without respect to the value limitations in section 561.3, and actually occupied by the owner or the spouse of the owner, or both. "Owner-occupied dwelling" includes a newly constructed dwelling to be occupied by the owner as a homestead, or a dwelling that is under construction and being built by or for an owner who will occupy the dwelling as a homestead.

Sec. 2. Section 572.14, Code 1981, is amended to read as follows:

572.14 LIABILITY TO SUBCONTRACTOR AFTER PAYMENT TO ORIGINAL CONTRACTOR.

1. Payment Except as provided in subsection 2, payment to the original contractor by the owner of any part or all of the contract price of ~~such~~ the building, or improvement before the lapse of the sixty days allowed by law for the filing of a mechanic's lien by a subcontractor, ~~will~~ does not relieve the owner from liability to the subcontractor for the full value of any material furnished or labor performed upon ~~said~~ the building, land, or improvement if the subcontractor ~~file--his~~ files a lien within the time provided by law for ~~the~~ its filing ~~of-the-same~~.

2. In the case of an owner-occupied dwelling, a mechanic's lien perfected under this chapter is enforceable only to the extent of the balance due from the owner to the principal contractor at the time written notice, in the form specified in subsection 3, is served on the owner. This notice may be served by delivering it to the owner or the owner's spouse personally, or by mailing it to the owner by certified mail with restricted delivery and return receipt to the person mailing the notice, or by personal service as provided in the rules of civil procedure.

3. The written notice required for purposes of subsection 2 shall contain the name of the owner, the address of the property charged with the lien, the name, address and telephone number of the lien claimant, and the following statement:

"The person named in this notice is providing labor or materials or both in connection with improvements to your residence or real property. Chapter 572 of the Code of Iowa may permit the enforcement of a lien against this property to secure payment for labor and materials supplied. You are not required to pay more to the person claiming the lien than the amount of money due from you to the person with whom you contracted to perform the improvements. You should not make further payments to your contractor until the contractor presents you with a waiver of the lien claimed by the person named in this notice. If you have any questions regarding this notice you should call the person named in this notice at the phone number listed in this notice or contact an attorney. You should obtain answers to your questions before you make any payments to the contractor."

Sec. 3. Section 572.16, Code 1981, is amended to read as follows:

572.16 RULE OF CONSTRUCTION. Nothing in this chapter shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in ~~his~~ the owner's contract with the principal contractor, unless said owner pays a part or all of the contract price to the original contractor before the expiration of the sixty days allowed by law for the filing of a mechanic's lien by a subcontractor; provided that in the case of an owner-occupied dwelling, nothing in this chapter shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in the owner's contract with the principal contractor, unless the owner pays a part or all of the contract price to the principal contractor after receipt of notice under section 572.14, subsection 2.

Sec. 4. Chapter 572, Code 1981, is amended by adding the following new section:

NEW SECTION. Unless otherwise agreed, a principal contractor who engages a subcontractor to supply labor or materials or both for improvements, alterations or repairs to a specific owner-occupied dwelling shall pay the subcontractor in full for all labor and materials supplied within thirty days after the date the principal contractor receives full payment from the owner. If a principal contractor fails without due cause to pay a subcontractor as required by this section, the subcontractor, or the owner by subrogation, may commence an action against the contractor to recover the amount due and the court may, in addition to actual damages, award exemplary damages against the contractor in an amount not exceeding fifty percent of the amount due the subcontractor, or the owner by subrogation, for the labor and materials supplied.

Sec. 5. This Act does not apply with respect to a contract for the improvement, alteration, or repair of real property if the contract was executed prior to the effective date of this Act.

Approved June 16, 1981