

CHAPTER 79
MECHANICS' LIENS
S.F. 423

AN ACT relating to the subcontractor's right to file a mechanic's lien against the property for which labor is performed or material is furnished.

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

Section 1. Section 572.9, Code 1987, is amended to read as follows:

572.9 TIME OF FILING.

The statement or account required by section 572.8 shall be filed by a principal contractor or subcontractor within ninety days, and by a subcontractor within sixty days, from the date on which the last of the material was furnished or the last of the labor was performed. A failure to file the same statement or account within said periods shall the ninety-day period does not defeat the lien, except as otherwise provided in this chapter.

Sec. 2. Section 572.10, Code 1987, is amended to read as follows:

572.10 PERFECTING SUBCONTRACTOR'S LIEN AFTER LAPSE OF SIXTY NINETY DAYS.

After the lapse of the sixty ninety days prescribed in section 572.9, a subcontractor may perfect a mechanic's lien by filing a claim with the clerk of the district court and giving written notice thereof to the owner, the owner's agent, or trustee. Such notice may be served by any person in the manner original notices are required to be served. If the party to be served, the party's agent, or trustee, is out of the county wherein the property is situated, a return of that fact by the person charged with making such service shall constitute sufficient service from and after the time it was filed with the clerk of the district court.

Sec. 3. Section 572.11, Code 1987, is amended to read as follows:

572.11 EXTENT OF LIEN FILED AFTER SIXTY NINETY DAYS.

Liens perfected under section 572.10 shall be enforced against the property or upon the bond, if given, by the owner, as hereinafter provided, only to the extent of the balance due from the owner to the contractor at the time of the service of such notice; but if the bond was given by the contractor, or person contracting with the subcontractor filing the claim for a lien, such bond shall be enforced to the full extent of the amount found due the subcontractor.

Sec. 4. Section 572.12, Code 1987, is amended to read as follows:

572.12 TIME OF FILING AGAINST RAILWAY.

Where a lien is claimed upon a railway, the subcontractor shall have sixty ninety days from the last day of the month in which such labor was done or material furnished within which to file the claim therefor.

Sec. 5. Section 572.13, Code 1987, is amended to read as follows:

572.13 LIABILITY OF OWNER TO ORIGINAL CONTRACTOR.

1. ~~No~~ An owner of any a building, land, or improvement upon which a mechanic's lien of a subcontractor may be filed, shall be is not required to pay the original contractor for compensation for work done or material furnished for said the building, land, or improvement until the expiration of sixty ninety days from the completion of said the building, or improvement unless the original contractor shall furnish furnishes to the owner one of the following:

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

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

2. An original contractor who enters into a contract for an owner-occupied dwelling and who has contracted or will contract with a subcontractor to provide labor or furnish material for the dwelling shall include the following notice in any written contract with the owner and shall provide the owner with a copy of the written contract:

"Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner."

If no written contract is entered into between the original contractor and the dwelling owner, the original contractor shall, within ten days of commencement of work on the dwelling, provide written notice to the dwelling owner stating the name and address of all subcontractors that the contractor intends to use for the construction and, that the subcontractors or suppliers may have lien rights in the event they are not paid for their labor or material used on this site; and the notice shall be updated as additional subcontractors and suppliers are used from the names disclosed on earlier notices.

An original contractor who fails to provide notice under this section is not entitled to the lien and remedy provided by this chapter as they pertain to any labor performed or material furnished by a subcontractor not included in the notice.

Sec. 6. Section 572.14, subsection 1, Code 1987, is amended to read as follows:

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

Sec. 7. Section 572.16, Code 1987, 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 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 ninety 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. 8. Section 572.27, Code 1987, is amended to read as follows:

572.27 LIMITATION ON ACTION.

An action to enforce a mechanic's lien may be brought within two years from the expiration of the sixty or ninety days, as the case may be, for filing the claim as provided in this chapter and not afterwards.

Sec. 9. Section 572.30, Code 1987, is amended to read as follows:

572.30 ACTION BY SUBCONTRACTOR OR OWNER AGAINST CONTRACTOR.

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. Prior to commencing an action to recover the amount due, a subcontractor, or the owner by subrogation, shall give notice of nonpayment of the cost of labor or materials to the principal contractor paid for the improvement. Notice of nonpayment must be in writing, delivered in a reasonable manner, and in terms that reasonably identify the real estate improved and the nonpayment complained of. In an action to recover the amount due a subcontractor, or the owner by subrogation, under this section, the court in addition to actual damages, shall award a successful plaintiff exemplary damages against the contractor in an amount not less than one percent and not exceeding fifteen percent of the amount due the subcontractor, or the owner by subrogation, for the labor and materials supplied, unless the principal contractor does one or both of the following, in which case no exemplary damages shall be awarded:

1. Establishes that all proceeds received from the person making the payment have been applied to the cost of labor or material furnished for the improvement.

2. Within fifteen days after receiving notice of nonpayment the principal contractor gives a bond or makes a deposit with the clerk of the district court, in an amount not less than the amount necessary to satisfy the nonpayment for which notice has been given under this section, and form approved by a judge of the district court, to hold harmless the owner or person having the improvement made from any claim for payment of anyone furnishing labor or material for the improvement, other than the principal contractor.

Approved April 30, 1987

CHAPTER 80

CONSUMER RENTAL PURCHASE AGREEMENTS

H.F. 585

AN ACT relating to including consumer rental purchase agreements in the consumer credit code.

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

Section 1. **NEW SECTION. 537.3601 SHORT TITLE.**

This part of article 3 may be known and may be cited as the "Consumer Rental Purchase Agreement Act".

Sec. 2. **NEW SECTION. 537.3602 PURPOSES — RULES OF CONSTRUCTION.**

1. This part shall be liberally construed and applied to promote its underlying purposes and policies.

2. The underlying purposes and policies of this part are to:

a. Define, simplify, and clarify the law governing consumer rental purchase agreements.
b. Provide certain disclosures to consumers who enter into consumer rental purchase agreements, and further consumer understanding of the terms of consumer rental purchase agreements.

c. Protect consumers against unfair practices.

d. Permit and encourage the development of fair and economically sound rental purchase practices.

e. Make the law on consumer rental purchase agreements, including administrative rules, more uniform among the various uniform consumer credit code jurisdictions.

3. A reference to a requirement imposed by this part includes a reference to a related rule of the administrator adopted pursuant to this chapter.

Sec. 3. **NEW SECTION. 537.3603 EXCLUSIONS.**

This part does not apply to, and an agreement which complies with this part is not governed by the provisions regarding: