

CHAPTER 99
MECHANICS' LIENS
H.F. 565

AN ACT relating to mechanic's liens and the mechanics' notice and lien registry.

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

Section 1. Section 572.8, subsection 1, paragraph b, Code 2013, is amended to read as follows:

b. The legal description of that adequately describes the property to be charged with the lien.

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

572.11 Extent of lien posted after ninety days.

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

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

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

a. The name and address of the owner.

b. The name, address, and telephone number of the general contractor or owner-builder.

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

d. The legal description of that adequately describes the property to be charged with the lien.

e. The date work commenced.

f. The tax parcel identification number.

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

2. If a general contractor or owner-builder fails to post the required notice of commencement of work to the mechanics' notice and lien registry internet website pursuant to subsection 1, within ten days of commencement of the work on the property, a subcontractor may post the notice in conjunction with the filing posting of the required preliminary notice pursuant to section 572.13B. A notice of commencement of work must be posted to the mechanics' notice and lien registry internet website before preliminary notices pursuant to section 572.13B may be posted.

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

c. The notice described in subsection 1 shall be sent to the owner's address as posted to the mechanics' notice and lien registry by the general contractor, owner-builder, or subcontractor. If the owner's address is different than the property address, a copy of the notice shall also be sent to the property address, addressed to the owner if a mailing address has been assigned to the property by the United States postal service.

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

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

Sec. 6. Section 572.13B, subsection 1, paragraph g, Code 2013, is amended to read as follows:

g. The legal description of that adequately describes the property to be charged with the lien.

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

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

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

572.15 Discharge of mechanic's lien — bond.

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

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

572.19 Priority over garnishments of the owner.

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

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

~~The administrator shall endorse upon every claim for a mechanic's lien posted to the mechanics' notice and lien registry internet website the date and hour of posting.~~ Each claim posted to the mechanics' notice and lien registry internet website shall be properly indexed and shall contain the following items:

Sec. 11. Section 572.22, subsection 5, Code 2013, is amended to read as follows:

5. The legal description of that adequately describes the property to be charged with the lien.

Sec. 12. Section 572.23, subsection 2, Code 2013, is amended to read as follows:

2. If satisfaction is not acknowledged within thirty days after service of the demand in writing, the party serving the demand or causing the demand to be served may file for record with the administrator a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of this subsection, the ~~record~~ posting shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the filing posting of the demand with the required attachments, the administrator shall mail a date-stamped copy of the demand to both parties.

Sec. 13. Section 572.28, subsection 1, Code 2013, is amended to read as follows:

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

Sec. 14. Section 572.30, subsection 2, Code 2013, is amended to read as follows:

2. Within fifteen days after receiving notice of nonpayment the general contractor or owner-builder gives a bond ~~or makes a deposit with the administrator~~, in an amount not less than the amount necessary to satisfy the nonpayment for which notice has been given under this section, and in a form approved by ~~a judge of the district court the administrator~~, 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 general contractor or owner-builder.

Sec. 15. Section 572.31, Code 2013, is amended to read as follows:

572.31 Cooperative and condominium housing.

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

Sec. 16. Section 572.33A, Code 2013, is amended to read as follows:

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

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

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

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

2. This section applies only to commercial construction properties.

Sec. 17. Section 572.34, Code 2013, is amended to read as follows:

572.34 Mechanics' notice and lien registry — residential construction.

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

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

3. The registry shall be indexed by owner name, general contractor name, mechanics' notice and lien registry number, property address, legal description, tax parcel identification number, and any other identifier considered appropriate as determined by the administrator pursuant to rule.

4. ~~A general contractor, owner-builder, or subcontractor~~ Any person who posts fictitious, forged, or false information to the mechanics' notice and lien registry shall be subject to a penalty as determined by the administrator by rule in addition to all other penalties and remedies available under applicable law.

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

6. The administrator shall charge and collect fees as established by rule necessary for the administration and maintenance of the registry and the registry's internet website. The administrator shall not charge a filing posting fee for a preliminary notice required pursuant to this chapter that exceeds the cost of sending such notice by certified mail with restricted

delivery and return receipt. The administrator shall not charge a filing posting fee for a mechanic's lien that exceeds forty dollars.

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

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

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

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

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

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

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

Approved May 9, 2013