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HOUSE BILL 1475

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State of Washington

62nd Legislature

2011 Regular Session

By Representative Moeller

Read first time 01/24/11. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to the notice requirements for claiming a  
2 mechanics' or materialmen's lien; amending RCW 60.04.091; and providing  
3 an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 60.04.091 and 1992 c 126 s 7 are each amended to read  
6 as follows:

7 Every person claiming a lien under RCW 60.04.021 shall file for  
8 recording, in the county where the subject property is located, a  
9 notice of claim of lien not later than ninety days after the person has  
10 ceased to furnish labor, professional services, materials, or equipment  
11 or the last date on which employee benefit contributions were due. The  
12 notice of claim of lien:

13 (1) Shall state in substance and effect:

14 (a) The name, phone number, and address of the claimant;

15 (b) The first and last date on which the labor, professional  
16 services, materials, or equipment was furnished or employee benefit  
17 contributions were due;

18 (c) The name of the person indebted to the claimant;

1 (d) The street address, legal description, or other description  
2 reasonably calculated to identify, for a person familiar with the area,  
3 the location of the real property to be charged with the lien;

4 (e) The name of the owner or reputed owner of the property, if  
5 known, and, if not known, that fact shall be stated; and

6 (f) The principal amount for which the lien is claimed.

7 (2) Shall be signed by the claimant or some person authorized to  
8 act on his or her behalf who shall affirmatively state they have read  
9 the notice of claim of lien and believe the notice of claim of lien to  
10 be true and correct under penalty of perjury, and shall be acknowledged  
11 (~~pursuant to~~) before an authorized person specified in chapter 64.08  
12 RCW, subject to RCW 64.08.100. If the lien has been assigned, the name  
13 of the assignee shall be stated. Where an action to foreclose the lien  
14 has been commenced such notice of claim of lien may be amended as  
15 pleadings may be by order of the court insofar as the interests of  
16 third parties are not adversely affected by such amendment.

17 (a) A claim of lien substantially in the following form with the  
18 appropriate acknowledgment specified in (b) of this subsection shall be  
19 sufficient:

20 CLAIM OF LIEN

21 . . . . ., claimant, vs . . . . ., name of person indebted  
22 to claimant:

23 Notice is hereby given that the person named below claims a  
24 lien pursuant to chapter (~~64.04~~) 60.04 RCW. In support of  
25 this lien the following information is submitted:

- 26 1. NAME OF LIEN CLAIMANT: . . . . .  
27 TELEPHONE NUMBER: . . . . .  
28 ADDRESS: . . . . .

29 2. DATE ON WHICH THE CLAIMANT BEGAN TO PERFORM LABOR,  
30 PROVIDE PROFESSIONAL SERVICES, SUPPLY MATERIAL OR EQUIPMENT OR  
31 THE DATE ON WHICH EMPLOYEE BENEFIT CONTRIBUTIONS BECAME DUE: .

32 3. NAME OF PERSON INDEBTED TO THE CLAIMANT:  
33 . . . . .

34 4. DESCRIPTION OF THE PROPERTY AGAINST WHICH A LIEN IS  
35 CLAIMED (Street address, legal description or other information  
36 that will reasonably describe the property): . . . . .

1 . . . . .  
2 . . . . .  
3 . . . . .

4 5. NAME OF THE OWNER OR REPUTED OWNER (If not known  
5 state "unknown"): . . . . .

6 6. THE LAST DATE ON WHICH LABOR WAS PERFORMED;  
7 PROFESSIONAL SERVICES WERE FURNISHED; CONTRIBUTIONS TO AN  
8 EMPLOYEE BENEFIT PLAN WERE DUE; OR MATERIAL, OR EQUIPMENT WAS  
9 FURNISHED: . . . . .  
10 . . . . .

11 7. PRINCIPAL AMOUNT FOR WHICH THE LIEN IS CLAIMED IS: . .

12 8. IF THE CLAIMANT IS THE ASSIGNEE OF THIS CLAIM SO  
13 STATE HERE: . . . . .  
14 . . . . .

15 ..... , Claimant  
16 .....  
17 .....  
18 (Phone number, address, city, and  
19 state of claimant)

20 (b)(i) An acknowledgment for an individual claimant, an attorney of  
21 an individual claimant, or the administrator, representative, or agent  
22 of the trustees of an employee benefit plan substantially in the same  
23 form as the following shall be sufficient:

24 STATE OF WASHINGTON, COUNTY OF  
25 . . . . ., ss.

26 . . . . ., being sworn, says: I am the claimant (or attorney of  
27 the claimant, or administrator, representative, or agent of the  
28 trustees of an employee benefit plan) above named; I have read or heard  
29 the foregoing claim, read and know the contents thereof, and believe  
30 the same to be true and correct and that the claim of lien is not  
31 frivolous and is made with reasonable cause, and is not clearly  
32 excessive under penalty of perjury.

33 . . . . .  
34 (Signature)

1 Subscribed and sworn to before me this . . . . day of . . . . .  
2 . . . . .  
3 (Signature)

4 (Seal or stamp of notary public)

5 .....

6 Title

7 My appointment

8 expires .....

9 (ii) An acknowledgment for a corporate claimant substantially in  
10 the same form as the following shall be sufficient:

11 STATE OF WASHINGTON, COUNTY OF

12 ....., ss.

13 ....., being sworn, says: I am the president (or vice  
14 president, secretary, treasurer, or other authorized officer or agent,  
15 as the case may be) of ..... that executed the claim of a  
16 lien, and I acknowledge this claim to be the free and voluntary act and  
17 deed of the corporation, for the uses and purposes therein mentioned;  
18 I am authorized to execute this claim and the seal affixed is the  
19 corporate seal of the corporation; I have read or heard the foregoing  
20 claim, read and know the contents thereof, and believe the same to be  
21 true and correct and that the claim of lien is not frivolous and is  
22 made with reasonable cause, and is not clearly excessive under penalty  
23 of perjury.

24 .....

25 (Signature)

26 (Seal or stamp of corporation)

27 Subscribed and sworn to before me this . . . . day of . . . . .

28 .....

29 (Signature)

30 (Seal or stamp of notary public)

31 .....

32 Title

33 My appointment

34 expires .....

35 (iii) A party or entity not specified in (b)(i) and (ii) of this  
36 subsection shall modify the pattern form to comply with the  
37 acknowledgment requirements pursuant to chapter 64.08 RCW.

1        (c) The period provided for recording the claim of lien is a period  
2 of limitation and no action to foreclose a lien shall be maintained  
3 unless the claim of lien is filed for recording within the ninety-day  
4 period stated. The lien claimant shall give a copy of the claim of  
5 lien to the owner or reputed owner by mailing it by certified or  
6 registered mail or by personal service within fourteen days of the time  
7 the claim of lien is filed for recording. Failure to do so results in  
8 a forfeiture of any right the claimant may have to attorneys' fees and  
9 costs against the owner under RCW 60.04.181.

10        NEW SECTION.   **Sec. 2.** This act takes effect January 1, 2012.

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