
HOUSE BILL 1708

State of Washington

62nd Legislature

2011 Regular Session

By Representative Moeller

Read first time 01/31/11. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to mechanics' and materialmen's claims of liens;
2 and amending RCW 60.04.091, 60.04.171, and 60.04.900.

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

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

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

12 (1) Shall state in substance and effect:

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

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

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

18 (d) The street address, legal description, or other description

1 reasonably calculated to identify, for a person familiar with the area,
2 the location of the real property to be charged with the lien;

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

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

6 (2) Shall be signed by the claimant or some person authorized to
7 act on his or her behalf who shall affirmatively state they have read
8 the notice of claim of lien and believe the notice of claim of lien to
9 be true and correct under penalty of perjury(~~(, and shall be~~
10 ~~acknowledged pursuant to chapter 64.08 RCW)~~). If the lien has been
11 assigned, the name of the assignee shall be stated. If the claim of
12 lien is signed by a corporate representative, attorney, lien filing
13 agent, or other individual authorized to act on the claimant's behalf,
14 the claim of lien shall indicate the individual's capacity to sign on
15 behalf of the claimant. Where an action to foreclose the lien has been
16 commenced such notice of claim of lien may be amended as pleadings may
17 be by order of the court insofar as the interests of third parties are
18 not adversely affected by such amendment. A claim of lien
19 substantially in the following form shall be sufficient:

20 CLAIM OF LIEN

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

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

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

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

33 3. NAME OF PERSON INDEBTED TO THE CLAIMANT:
34

35 4. DESCRIPTION OF THE PROPERTY AGAINST WHICH A LIEN IS

1 CLAIMED (Street address, legal description or other information
2 that will reasonably describe the property):
3
4
5

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

8 6. THE LAST DATE ON WHICH LABOR WAS PERFORMED;
9 PROFESSIONAL SERVICES WERE FURNISHED; CONTRIBUTIONS TO AN
10 EMPLOYEE BENEFIT PLAN WERE DUE; OR MATERIAL, OR EQUIPMENT WAS
11 FURNISHED:
12

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

14 8. IF THE CLAIMANT IS THE ASSIGNEE OF THIS CLAIM SO
15 STATE HERE:
16

17 9. IF THE INDIVIDUAL SIGNING THIS CLAIM OF LIEN IS AN
18 OFFICER OR EMPLOYEE OF THE CLAIMANT, OR AN ATTORNEY,
19 REPRESENTATIVE OF A LIEN FILING SERVICE, OR OTHER INDIVIDUAL
20 AUTHORIZED TO ACT ON THE CLAIMANT'S BEHALF, STATE THE NAME AND
21 REPRESENTATIVE CAPACITY OF THE INDIVIDUAL SIGNING THIS CLAIM OF
22 LIEN:

23 NAME:

24 REPRESENTATIVE CAPACITY: (officer or employee of
25 claimant, attorney, agent, etc.)

26 , Claimant
27
28
29 (Phone number, address, city, and
30 state of claimant)

31 STATE OF WASHINGTON, COUNTY OF

32, ss.

33, being sworn, says: I am the claimant (or ((attorney

1 ~~of the claimant~~) an officer or employee of the claimant, or an
2 attorney, representative of a lien filing service, or other individual
3 authorized to act on the claimant's behalf, or administrator,
4 representative, or agent of the trustees of an employee benefit plan)
5 above named; I have read or heard the foregoing claim, read and know
6 the contents thereof, and believe the same to be true and correct and
7 that the claim of lien is not frivolous and is made with reasonable
8 cause, and is not clearly excessive under penalty of perjury.

9
10 Subscribed and sworn to before me this day of
11

12 The period provided for recording the claim of lien is a period of
13 limitation and no action to foreclose a lien shall be maintained unless
14 the claim of lien is filed for recording within the ninety-day period
15 stated. The lien claimant shall give a copy of the claim of lien to
16 the owner or reputed owner by mailing it by certified or registered
17 mail or by personal service within fourteen days of the time the claim
18 of lien is filed for recording. Failure to do so results in a
19 forfeiture of any right the claimant may have to attorneys' fees and
20 costs against the owner under RCW 60.04.181.

21 **Sec. 2.** RCW 60.04.171 and 1992 c 126 s 11 are each amended to read
22 as follows:

23 The lien provided by this chapter, for which claims of lien have
24 been recorded, may be foreclosed and enforced by a civil action in the
25 court having jurisdiction in the manner prescribed for the judicial
26 foreclosure of a mortgage, and the court rules ordinarily applicable to
27 civil actions shall apply to that action. The court shall have the
28 power to order the sale of the property. In any action brought to
29 foreclose a lien, the owner shall be joined as a party. The interest
30 in the real property of any person who, prior to the commencement of
31 the action, has a recorded interest in the property, or any part
32 thereof, shall not be foreclosed or affected unless they are joined as
33 a party.

34 A person shall not begin an action to foreclose a lien upon any
35 property while a prior action begun to foreclose another lien on the
36 same property is pending, but if not made a party plaintiff or

1 defendant to the prior action, he or she may apply to the court to be
2 joined as a party thereto, and his or her lien may be foreclosed in the
3 same action. The filing of such application shall toll the running of
4 the period of limitation established by RCW 60.04.141 until disposition
5 of the application or other time set by the court. The court shall
6 grant the application for joinder unless to do so would create an undue
7 delay or cause hardship which cannot be cured by the imposition of
8 costs or other conditions as the court deems just. If a lien
9 foreclosure action is filed during the pendency of another such action,
10 the court may, on its own motion or the motion of any party,
11 consolidate actions upon such terms and conditions as the court deems
12 just, unless to do so would create an undue delay or cause hardship
13 which cannot be cured by the imposition of costs or other conditions.
14 If consolidation of actions is not permissible under this section, the
15 lien foreclosure action filed during the pendency of another such
16 action shall not be dismissed if the filing was the result of mistake,
17 inadvertence, surprise, excusable neglect, or irregularity. An action
18 to foreclose a lien shall not be dismissed at the instance of a
19 plaintiff therein to the prejudice of another party to the suit who
20 claims a lien.

21 **Sec. 3.** RCW 60.04.900 and 1991 c 281 s 25 are each amended to read
22 as follows:

23 RCW 19.27.095, 60.04.230, and 60.04.011 through 60.04.226 and
24 60.04.261 are to be liberally construed to (~~provide security for all~~
25 ~~parties intended to be protected by their provisions~~) protect the
26 interests of permit applicants and of persons furnishing labor,
27 professional services, materials, or equipment for the improvement of
28 real property.

--- END ---