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**SUBSTITUTE SENATE BILL 6482**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** Senate Commerce & Labor (originally sponsored by Senators Hewitt, Keiser, Fraser, Conway, Angel, Hasegawa, King, Bailey, Brown, Dinsel, Schoesler, Warnick, Honeyford, and Sheldon)

READ FIRST TIME 02/04/16.

1       AN ACT Relating to mechanics' and materialmen's liens; and  
2 amending RCW 60.04.021 and 60.04.031.

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

4       **Sec. 1.** RCW 60.04.021 and 1991 c 281 s 2 are each amended to  
5 read as follows:

6       Except as provided in RCW 60.04.031, any person furnishing labor,  
7 professional services, materials, or equipment for the improvement of  
8 real property shall have a lien upon the improvement for the  
9 ~~((contract price of))~~ actual costs to the person furnishing labor,  
10 professional services, materials, or equipment ~~((furnished))~~ at the  
11 instance of the owner, or the agent or construction agent of the  
12 owner.

13       **Sec. 2.** RCW 60.04.031 and 1992 c 126 s 2 are each amended to  
14 read as follows:

15       (1) Except as otherwise provided in this section, every person  
16 furnishing professional services, materials, or equipment for the  
17 improvement of real property shall give the owner or reputed owner  
18 notice in writing of the right to claim a lien. If the prime  
19 contractor is in compliance with the requirements of RCW 19.27.095,  
20 60.04.230, and 60.04.261, this notice shall also be given to the

1 prime contractor as described in this subsection unless the potential  
2 lien claimant has contracted directly with the prime contractor. The  
3 notice may be given at any time but only protects the right to claim  
4 a lien for professional services, materials, or equipment supplied  
5 after the date which is sixty days before:

6 (a) Mailing the notice by certified or registered mail to the  
7 owner or reputed owner; or

8 (b) Delivering or serving the notice personally upon the owner or  
9 reputed owner and obtaining evidence of delivery in the form of a  
10 receipt or other acknowledgment signed by the owner or reputed owner  
11 or an affidavit of service.

12 In the case of new construction of a single-family residence, the  
13 notice of a right to claim a lien may be given at any time but only  
14 protects the right to claim a lien for professional services,  
15 materials, or equipment supplied after a date which is ten days  
16 before the notice is given as described in this subsection.

17 (2) Notices of a right to claim a lien shall not be required of:

18 (a) Persons who contract directly with the owner or the owner's  
19 common law agent;

20 (b) Laborers whose claim of lien is based solely on performing  
21 labor; or

22 (c) Subcontractors who contract for the improvement of real  
23 property directly with the prime contractor, except as provided in  
24 subsection (3)(b) of this section.

25 (3) Persons who furnish professional services, materials, or  
26 equipment in connection with the repair, alteration, or remodel of an  
27 existing owner-occupied single-family residence or appurtenant  
28 garage:

29 (a) Who contract directly with the owner-occupier or their common  
30 law agent shall not be required to send a written notice of the right  
31 to claim a lien and shall have a lien for the full amount due under  
32 their contract, as provided in RCW 60.04.021; or

33 (b) Who do not contract directly with the owner-occupier or their  
34 common law agent shall give notice of the right to claim a lien to  
35 the owner-occupier. Liens of persons furnishing professional  
36 services, materials, or equipment who do not contract directly with  
37 the owner-occupier or their common law agent may only be satisfied  
38 from amounts not yet paid to the prime contractor by the owner at the  
39 time the notice described in this section is received, regardless of  
40 whether amounts not yet paid to the prime contractor are due. For the

1 purposes of this subsection "received" means actual receipt of notice  
2 by personal service, or registered or certified mail, or three days  
3 after mailing by registered or certified mail, excluding Saturdays,  
4 Sundays, or legal holidays.

5 (4) The notice of right to claim a lien described in subsection  
6 (1) of this section, shall include but not be limited to the  
7 following information and shall substantially be in the following  
8 form, using lower-case and upper-case ten-point type where  
9 appropriate.

10 NOTICE TO OWNER

11 IMPORTANT: READ BOTH SIDES OF THIS NOTICE CAREFULLY.

12 PROTECT YOURSELF FROM PAYING TWICE

13 To:.....Date:.....

14 Re: (description of property: Street address or general location.)

15 From: . . . . .

16 AT THE REQUEST OF: (Name of person ordering the professional  
17 services, materials, or equipment)

18 THIS IS NOT A LIEN: This notice is sent to you to tell you who is  
19 providing professional services, materials, or equipment for the  
20 improvement of your property and to advise you of the rights of these  
21 persons and your responsibilities. Also take note that laborers on  
22 your project may claim a lien without sending you a notice.

23 OWNER/OCCUPIER OF EXISTING  
24 RESIDENTIAL PROPERTY

25 Under Washington law, those who furnish labor, professional services,  
26 materials, or equipment for the repair, remodel, or alteration of  
27 your owner-occupied principal residence and who are not paid, have a  
28 right to enforce their claim for payment against your property. This  
29 claim is known as a construction lien.

30 The law limits the amount that a lien claimant can claim against your  
31 property. Claims may only be made against that portion of the  
32 contract price you have not yet paid to your prime contractor as of  
33 the time this notice was given to you or three days after this notice  
34 was mailed to you. Review the back of this notice for more  
35 information and ways to avoid lien claims.

COMMERCIAL AND/OR NEW  
RESIDENTIAL PROPERTY

We have or will be providing professional services, materials, or equipment for the improvement of your commercial or new residential project. In the event you or your contractor fail to pay us, we may file a lien against your property. A lien may be claimed for all professional services, materials, or equipment furnished after a date that is sixty days before this notice was given to you or mailed to you, unless the improvement to your property is the construction of a new single-family residence, then ten days before this notice was given to you or mailed to you.

Sender: . . . . .  
Address: . . . . .  
Telephone: . . . . .

Brief description of professional services, materials, or equipment provided or to be provided: . . . . .

IMPORTANT INFORMATION  
ON REVERSE SIDE

IMPORTANT INFORMATION  
FOR YOUR PROTECTION

This notice is sent to inform you that we have or will provide professional services, materials, or equipment for the improvement of your property. We expect to be paid by the person who ordered our services, but if we are not paid, we have the right to enforce our claim by filing a construction lien against your property.

LEARN more about the lien laws and the meaning of this notice by discussing them with your contractor, suppliers, Department of Labor and Industries, the firm sending you this notice, your lender, or your attorney.

COMMON METHODS TO AVOID CONSTRUCTION LIENS: There are several methods available to protect your property from construction liens. The following are two of the more commonly used methods.

DUAL PAYCHECKS (Joint Checks): When paying your contractor for services or materials, you may make checks payable jointly to the contractor and the firms furnishing you this notice.

1 LIEN RELEASES: You may require your contractor to provide  
2 lien releases signed by all the suppliers and subcontractors  
3 from whom you have received this notice. If they cannot  
4 obtain lien releases because you have not paid them, you may  
5 use the dual payee check method to protect yourself.

6 YOU SHOULD TAKE APPROPRIATE STEPS TO PROTECT YOUR PROPERTY FROM  
7 LIENS.

8 YOUR PRIME CONTRACTOR AND YOUR CONSTRUCTION LENDER ARE REQUIRED BY  
9 LAW TO GIVE YOU WRITTEN INFORMATION ABOUT LIEN CLAIMS. IF YOU HAVE  
10 NOT RECEIVED IT, ASK THEM FOR IT.

11 \* \* \* \* \*

12 (5) Every potential lien claimant providing professional services  
13 where no improvement as defined in RCW 60.04.011(5) (a) or (b) has  
14 been commenced, and the professional services provided are not  
15 visible from an inspection of the real property may record in the  
16 real property records of the county where the property is located a  
17 notice which shall contain the professional service provider's name,  
18 address, telephone number, legal description of the property, the  
19 owner or reputed owner's name, and the general nature of the  
20 professional services provided. If such notice is not recorded, the  
21 lien claimed shall be subordinate to the interest of any subsequent  
22 mortgagee and invalid as to the interest of any subsequent purchaser  
23 if the mortgagee or purchaser acts in good faith and for a valuable  
24 consideration acquires an interest in the property prior to the  
25 commencement of an improvement as defined in RCW 60.04.011(5) (a) or  
26 (b) without notice of the professional services being provided. The  
27 notice described in this subsection shall be substantially in the  
28 following form:

29 NOTICE OF FURNISHING  
30 PROFESSIONAL SERVICES

31 That on the \_\_\_\_\_ (day) day of \_\_\_\_\_ (month and year), \_\_\_\_\_ (name  
32 of provider) began providing professional services upon or for the  
33 improvement of real property legally described as follows:

34 [Legal Description  
35 is mandatory]

36 The general nature of the professional services provided is . . .

1 The owner or reputed owner of the real property is . . . . .  
 2 . . . . .  
 3 .....  
 4 (Signature)  
 5 .....  
 6 (Name of Claimant)  
 7 .....  
 8 (Street Address)  
 9 .....  
 10 (City, State, Zip Code)  
 11 .....  
 12 (Phone Number)

13 (6) Before filing a claim of lien authorized under RCW 60.04.021,  
 14 any person furnishing labor, professional services, materials, or  
 15 equipment for the improvement of real property, who is required to  
 16 give notice of the right to claim a lien under this section, must  
 17 give written notice to the owner or reputed owner and to the  
 18 contractor from which payment is due when such payment is thirty days  
 19 late.

20 (7) A lien authorized by this chapter shall not be enforced  
 21 unless the lien claimant has complied with the applicable provisions  
 22 of this section.

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