
SENATE BILL 6695

State of Washington 57th Legislature

2002 Regular Session

By Senators Winsley, Prentice and Fraser

Read first time 01/26/2002. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to claiming construction-related liens; and
2 amending RCW 60.04.031.

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

4 **Sec. 1.** RCW 60.04.031 and 1992 c 126 s 2 are each amended to read
5 as follows:

6 (1) Except as otherwise provided in this section, every person
7 furnishing professional services, materials, or equipment for the
8 improvement of real property shall give the owner or reputed owner
9 notice in writing of the right to claim a lien. If the prime
10 contractor is in compliance with the requirements of RCW 19.27.095,
11 60.04.230, and 60.04.261, this notice shall also be given to the prime
12 contractor as described in this subsection unless the potential lien
13 claimant has contracted directly with the prime contractor. The notice
14 may be given at any time but only protects the right to claim a lien
15 for professional services, materials, or equipment supplied after the
16 date which is sixty days before:

17 (a) Mailing the notice by certified or registered mail to the owner
18 or reputed owner; or

1 (b) Delivering or serving the notice personally upon the owner or
2 reputed owner and obtaining evidence of delivery in the form of a
3 receipt or other acknowledgement signed by the owner or reputed owner
4 or an affidavit of service.

5 In the case of new construction, repair, alteration, or remodel of
6 a single-family residence, the notice of a right to claim a lien may be
7 given at any time but only protects the right to claim a lien for
8 professional services, materials, or equipment supplied after ~~((a date~~
9 ~~which is ten days before))~~ the notice is given as described in this
10 subsection.

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

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

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

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

19 (3) Persons who furnish professional services, materials, or
20 equipment in connection with the repair, alteration, or remodel of an
21 existing owner-occupied single-family residence or appurtenant garage
22 or in connection with new construction of a single-family residence for
23 a residential owner:

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

28 (b) Who do not contract directly with the ~~((owner-occupier))~~ owner
29 or their common law agent shall give notice of the right to claim a
30 lien to the ~~((owner-occupier))~~ owner. Liens of persons furnishing
31 professional services, materials, or equipment who do not contract
32 directly with the ~~((owner-occupier))~~ owner or their common law agent
33 may only be satisfied from amounts designated in the contract for the
34 professional services, materials, or equipment supplied upon which the
35 lien claim is based and not yet paid to the prime contractor by the
36 owner at the time the notice described in this section is received,
37 regardless of whether amounts not yet paid to the prime contractor are
38 due. For lien claims under this subsection based on new construction,
39 repair, alteration, or remodel of a single-family residence, recovery

1 is limited to the lesser of the full amount of the claim or ten percent
2 of the full construction contract price. For the purposes of this
3 subsection "received" means actual receipt of notice by personal
4 service, or registered or certified mail, or three days after mailing
5 by registered or certified mail, excluding Saturdays, Sundays, or legal
6 holidays.

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

11 NOTICE TO OWNER

12 IMPORTANT: READ BOTH SIDES OF THIS NOTICE
13 CAREFULLY.

14 PROTECT YOURSELF FROM PAYING TWICE

15 To: Date:
16 Re: (description of property: Street address or general
17 location.)
18 From:
19 AT THE REQUEST OF: (Name of person ordering the professional
20 services, materials, or equipment)

21 THIS IS NOT A LIEN--THIS NOTICE IS MEANT TO PROVIDE YOU WITH
22 INFORMATION NECESSARY TO PROPERLY MANAGE YOUR CONSTRUCTION PROJECT:
23 This notice is sent to you to tell you who is providing professional
24 services, materials, or equipment for the improvement of your property
25 and to advise you of the rights of these persons and your
26 responsibilities. Also take note that laborers on your project may
27 claim a lien without sending you a notice.

28 OWNER/OCCUPIER OF EXISTING
29 RESIDENTIAL PROPERTY AND/OR
30 NEW RESIDENTIAL PROPERTY

31 Under Washington law, those who furnish labor, professional services,
32 materials, or equipment for the repair, remodel, or alteration of your
33 owner-occupied principal residence and who are not paid, have a right

1 to enforce their claim for payment against your property. This claim
2 is known as a construction lien.

3 The law limits the amount that a lien claimant can claim against your
4 property. If the improvement to your property is the construction of
5 a new single-family residence, a lien may be claimed for all
6 professional services, materials, or equipment furnished after the date
7 this notice was given to you or mailed to you. Claims may only be made
8 against that portion of the contract price you have not yet paid to
9 your prime contractor as of the time this notice was given to you or
10 three days after this notice was mailed to you. Review the back of
11 this notice for more information and ways to avoid lien claims.

12 COMMERCIAL ((~~AND/OR NEW~~
13 ~~RESIDENTIAL~~)) PROPERTY

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

23 Sender:
24 Address:
25 Telephone:

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

28 IMPORTANT INFORMATION
29 ON REVERSE SIDE

30 IMPORTANT INFORMATION
31 FOR YOUR PROTECTION

32 This notice is sent to inform you that we have or will provide
33 professional services, materials, or equipment for the improvement of
34 your property. We expect to be paid by the person who ordered our

1 services, but if we are not paid, we have the right to enforce our
2 claim by filing a construction lien against your property.

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

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

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

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

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

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

22 * * * * *

23 (5) Every potential lien claimant providing professional services
24 where no improvement as defined in RCW 60.04.011(5) (a) or (b) has been
25 commenced, and the professional services provided are not visible from
26 an inspection of the real property may record in the real property
27 records of the county where the property is located a notice which
28 shall contain the professional service provider's name, address,
29 telephone number, legal description of the property, the owner or
30 reputed owner's name, and the general nature of the professional
31 services provided. If such notice is not recorded, the lien claimed
32 shall be subordinate to the interest of any subsequent mortgagee and
33 invalid as to the interest of any subsequent purchaser if the mortgagee
34 or purchaser acts in good faith and for a valuable consideration
35 acquires an interest in the property prior to the commencement of an

1 improvement as defined in RCW 60.04.011(5) (a) or (b) without notice of
2 the professional services being provided. The notice described in this
3 subsection shall be substantially in the following form:

4 NOTICE OF FURNISHING
5 PROFESSIONAL SERVICES

6 That on the ___(day)___ day of ___(month and year)___, ___(name of
7 provider)___ began providing professional services upon or for the
8 improvement of real property legally described as follows:

9 [Legal Description
10 is mandatory]

11 The general nature of the professional services provided is . . .
12

13 The owner or reputed owner of the real property is
14

15
16 (Signature)

17
18 (Name of Claimant)

19
20 (Street Address)

21
22 (City, State, Zip Code)

23
24 (Phone Number)

25 (6) A lien authorized by this chapter shall not be enforced unless
26 the lien claimant has complied with the applicable provisions of this
27 section.

28 (7) For the purposes of this section, "commercial property"
29 includes residential property that is not owned by a residential
30 homeowner.

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