

ESB 1686

THE HOUSE OF REPRESENTATIVES
Thursday, April 1, 2010

ENGROSSED
Senate Bill No. 1686
As Amended

ENGROSSED SENATE BILL NO. 1686 - By: COATES, BURRAGE AND BARRINGTON
of the Senate and SULLIVAN, JONES AND HARRISON of the House.

[liens - pre-lien notice - modifying time period - repealer -
effective date]

~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

- 1 SECTION 1. AMENDATORY 42 O.S. 2001, Section 142.6, is amended to read
2 as follows:
- 3 Section 142.6 A. For the purposes of this section:
- 4 1. "Claimant" means a person, other than an original contractor, that is entitled or
5 may be entitled to a lien pursuant to Section 141 of ~~Title 42 of the Oklahoma Statutes~~
6 this title; and
- 7 2. "Person" means any individual, corporation, partnership, unincorporated
8 association, or other entity.
- 9 B. 1. Prior to the filing of a lien statement pursuant to Section 143.1 of ~~Title 42 of~~
10 ~~the Oklahoma Statutes~~ this title, but no later than seventy-five (75) days after the last
11 date of supply of material, services, labor, or equipment in which the claimant is entitled

1 or may be entitled to lien rights, the claimant shall send to the last-known address of the
2 original contractor and owner of the property a pre-lien notice pursuant to the provisions
3 of this section. Provided further, no lien affecting property presently occupied as a
4 dwelling by an owner shall be valid unless the pre-lien notice provided in this section was
5 sent within seventy-five (75) days of the last furnishing of materials, services, labor or
6 equipment by the claimant.

7 2. The provisions of this section shall not be construed to require:

- 8 a. a pre-lien notice with respect to any retainage held by agreement
9 between an owner, contractor, or subcontractor, or
10 b. more than one pre-lien notice during the course of a construction
11 project in which material, services, labor, or equipment is furnished.

12 A pre-lien notice sent in compliance with this section for the supply of material, services,
13 labor, or equipment that entitles or may entitle a claimant to lien rights shall protect the
14 claimant's lien rights for any subsequent supply of material, services, labor, or
15 equipment furnished during the course of a construction project.

16 3. The pre-lien notice requirements shall not apply to a claimant:

- 17 a. whose claim relates to the supply of material, services, labor, or
18 equipment furnished in connection with a residential project. For the
19 purposes of this subparagraph, the term "residential" shall mean a
20 single family or multifamily project of four or fewer dwelling units, or
21 b. whose aggregate claim is less than ~~Two Thousand Five Hundred~~
22 ~~Dollars (\$2,500.00)~~ Ten Thousand Dollars (\$10,000.00).

- 1 4. The pre-lien notice shall be in writing and shall contain, but not be limited to,
2 the following:
- 3 a. a statement that the notice is a pre-lien notice,
 - 4 b. the complete name, address, and telephone number of the claimant, or
5 the claimant's representative,
 - 6 c. the date of supply of material, services, labor, or equipment,
 - 7 d. a description of the material, services, labor, or equipment,
 - 8 e. the name and last-known address of the person who requested that the
9 claimant provide the material, services, labor, or equipment,
 - 10 f. the address, legal description, or location of the property to which the
11 material, services, labor, or equipment has been supplied,
 - 12 g. a statement that the dollar amount of the material, services, labor, or
13 equipment furnished or to be furnished exceeds ~~Two Thousand Five~~
14 ~~Hundred Dollars (\$2,500.00)~~ Ten Thousand Dollars (\$10,000.00), and
 - 15 h. the signature of the claimant, or the claimant's representative.

16 5. A rebuttable presumption of compliance with paragraph 1 of this subsection
17 shall be created if the pre-lien notice is sent as follows:

- 18 a. hand delivery supported by a delivery confirmation receipt,
- 19 b. automated transaction pursuant to Section 15-115 of Title 12A of the
20 Oklahoma Statutes, or
- 21 c. certified mail, return receipt requested. Notice by certified mail,
22 return receipt requested, shall be effective on the date mailed.

1 6. The claimant may request in writing, the request to be sent in the manner as
2 provided in paragraph 5 of this subsection, that the original contractor provide to the
3 claimant the name and last-known address of the owner of the property. Failure of the
4 original contractor to provide the claimant with the information requested within five (5)
5 days from the date of receipt of the request shall render the pre-lien notice requirement
6 to the owner of the property unenforceable.

7 C. At the time of the filing of the lien statement, the claimant shall furnish to the
8 county clerk a notarized affidavit verifying compliance with the pre-lien notice
9 requirements of this section. Any claimant who falsifies the affidavit shall be guilty of a
10 misdemeanor, and upon conviction thereof may be punished by a fine of not more than
11 Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for not more
12 than thirty (30) days, or by both such fine and imprisonment.

13 D. Failure of the claimant to comply with the pre-lien notice requirements of this
14 section shall render that portion of the lien claim for which no notice was sent invalid
15 and unenforceable.

16 SECTION 2. REPEALER 42 O.S. 2001, Sections 142.1, 142.3 and 142.5 are
17 hereby repealed.

18 SECTION 3. This act shall become effective November 1, 2010.

19 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
20 FINANCIAL SERVICES, dated 03-31-10 - DO PASS, As Amended and Coauthored.