

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

THE STATE SENATE
Thursday, February 18, 2010

Committee Substitute for
Senate Bill No. 1686

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1686 - By: Coates, Burrage and Barrington of the Senate and Sullivan of the House.

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

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

SECTION 1. AMENDATORY 42 O.S. 2001, Section 142.6, is amended to read as follows:

Section 142.6 A. For the purposes of this section:

1. "Claimant" means a person, other than an original contractor, that is entitled or may be entitled to a lien pursuant to Section 141 of ~~Title 42 of the Oklahoma Statutes~~ this title; and

2. "Person" means any individual, corporation, partnership, unincorporated association, or other entity.

B. 1. Prior to the filing of a lien statement pursuant to Section 143.1 of ~~Title 42 of the Oklahoma Statutes~~ this title, but no later than seventy-five (75) days after the last date of supply of material, services, labor, or equipment in which the claimant is entitled or may be entitled to lien rights, the claimant shall send to the last-known address of the original contractor and owner of the property a pre-lien notice pursuant to the provisions of this

1 section. Provided further, no lien affecting property presently
2 occupied as a dwelling by an owner shall be valid unless the pre-
3 lien notice provided in this section was sent within seventy-five
4 (75) days of the last furnishing of materials, services, labor or
5 equipment by the claimant.

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

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

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

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

- 21 a. whose claim relates to the supply of material,
22 services, labor, or equipment furnished in connection
23 with a residential project. For the purposes of this

1 subparagraph, the term "residential" shall mean a
2 single family or multifamily project of four or fewer
3 dwelling units, or

4 b. whose aggregate claim is less than ~~Two Thousand Five~~
5 ~~Hundred Dollars (\$2,500.00)~~ Ten Thousand Dollars
6 (\$10,000.00).

7 4. The pre-lien notice shall be in writing and shall contain,
8 but not be limited to, the following:

- 9 a. a statement that the notice is a pre-lien notice,
10 b. the complete name, address, and telephone number of
11 the claimant, or the claimant's representative,
12 c. the date of supply of material, services, labor, or
13 equipment,
14 d. a description of the material, services, labor, or
15 equipment,
16 e. the name and last-known address of the person who
17 requested that the claimant provide the material,
18 services, labor, or equipment,
19 f. the address, legal description, or location of the
20 property to which the material, services, labor, or
21 equipment has been supplied,
22 g. a statement that the dollar amount of the material,
23 services, labor, or equipment furnished or to be

1 furnished exceeds ~~Two Thousand Five Hundred Dollars~~
2 ~~(\$2,500.00)~~ Ten Thousand Dollars (\$10,000.00), and

3 h. the signature of the claimant, or the claimant's
4 representative.

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

- 8 a. hand delivery supported by a delivery confirmation
9 receipt,
- 10 b. automated transaction pursuant to Section 15-115 of
11 Title 12A of the Oklahoma Statutes, or
- 12 c. certified mail, return receipt requested. Notice by
13 certified mail, return receipt requested, shall be
14 effective on the date mailed.

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

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

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

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-15-10 -
16 DO PASS, As Amended and Coauthored.