ENGROSSED HOUSE
BILL NO. 1087

By: Grau and McBride of the House

and

Crain of the Senate

An Act relating to liens; amending 42 O.S. 2011, Sections 141 and 143, which relate to mechanics' and materialmen's liens; providing for lien filing to include payment of profit and overhead costs; and providing an effective date.

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

SECTION 1. AMENDATORY 42 O.S. 2011, Section 141, is amended to read as follows:

Section 141. Any person who shall, under oral or written contract with the owner of any tract or piece of land, perform labor, furnish material or lease or rent equipment used on said land for the erection, alteration or repair of any building, improvement or structure thereon or perform labor in putting up any fixtures, machinery in, or attachment to, any such building, structure or improvements; or who shall plant any tree, vines, plants or hedge in or upon such land; or who shall build, alter, repair or furnish labor, material or lease or rent equipment used on said land for buildings, altering, or repairing any fence or footwalk in or upon

said land, or any sidewalk in any street abutting such land, shall have a lien upon the whole of said tract or piece of land, the buildings and appurtenances <u>in an amount inclusive of all sums owed to the person at the time of the lien filing, including, without limitation, applicable profit and overhead costs</u>. If the title to the land is not in the person with whom such contract was made, the lien shall be allowed on the buildings and improvements on such land separately from the real estate. Such liens shall be preferred to all other liens or encumbrances which may attach to or upon such land, buildings or improvements or either of them subsequent to the commencement of such building, the furnishing or putting up of such fixtures or machinery, the planting of such trees, vines, plants or hedges, the building of such fence, footwalk or sidewalks, or the making of any such repairs or improvements; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found, and compliance with the provisions of this act shall constitute constructive notice of the claimant's lien to all purchasers and encumbrancers of said property or any part thereof, subsequent to the date of the furnishing of the first item of material or the date of the performance of the first labor or the first use of the rental equipment on said land.

SECTION 2. AMENDATORY 42 O.S. 2011, Section 143, is amended to read as follows:

Section 143. Any person who shall furnish any such material or lease or rent equipment used on said land or perform such labor as a subcontractor, or as an artisan or day laborer in the employ of the contractor, may obtain a lien upon such land, or improvements, or both, from the same time, in the same manner, and to the same extent as the original contractor, for the amount due ~~him~~ for such material, equipment and labor, as well as any applicable profit and overhead costs due to the person; and any artisan or day laborer in the employ of, and any person furnishing material or equipment used on said land to, such subcontractor may obtain a lien upon such land, or improvements, or both, for the same time, in the same manner, and to the same extent as the subcontractor, for the amount due ~~him~~ for such material, equipment used on said land and labor, as well as any applicable profit and overhead costs due to the person, by filing with the county clerk of the county in which the land is situated, within ninety (90) days after the date upon which material or equipment used on said land was last furnished or labor last performed under such subcontract, a statement, verified by affidavit, setting forth the amount due from the contractor to the claimant, and the items thereof, as nearly as practicable, the name of the owner, the name of the contractor, the name of the claimant, and a legal description of the property upon which a lien is claimed. Immediately upon the filing of such statement the county clerk shall enter a record of the same against the tract index and

in the journal provided for in the preceding section, and in the manner therein specified. Provided further, that the owner of any land affected by such lien shall not thereby become liable to any claimant for any greater amount than he contracted to pay the original contractor. The risk of all payments made to the original contractor shall be upon such owner until the expiration of the ninety (90) days herein specified, and no owner shall be liable to an action by such contractor until the expiration of said ninety (90) days, and such owner may pay such subcontractor the amount due him from such contractor for such labor, equipment used on said land and material, and the amount so paid shall be held and deemed a payment of said amount to the original contractor.

SECTION 3. This act shall become effective November 1, 2013.

Passed the House of Representatives the 5th day of March, 2013.

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Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2013.

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Presiding Officer of the Senate