

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 277

By: Anderson

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5  
6 AS INTRODUCED

7 An Act relating to pre-lien notice; amending 42 O.S.  
8 2001, Section 142.6, which relates to pre-lien  
9 notice; modifying statutory reference; modifying time  
10 period for filing of certain statement; specifying  
11 time period for pre-lien notice on certain property;  
12 modifying construing provision; increasing amount of  
13 certain exception; modifying information to be  
14 included on pre-lien notice; repealing 42 O.S. 2001,  
15 Sections 142.1, 142.3 and 142.5 which relate to  
16 enforcement of lien against owner-occupied dwelling,  
17 persons deemed not to be original contractor, laborer  
18 or materialman, and satisfaction of notice; and  
19 providing an effective date.

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

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

23 Section 142.6 A. For the purposes of this section:

24 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.

1 B. 1. Prior to the filing of a lien statement pursuant to  
2 Section 143.1 of ~~Title 42 of the Oklahoma Statutes~~ this title, but  
3 no later than seventy-five (75) days after the last date of supply  
4 of material, services, labor, or equipment in which the claimant is  
5 entitled or may be entitled to lien rights, the claimant shall send  
6 to the last-known address of the original contractor and an owner of  
7 the property a pre-lien notice pursuant to the provisions of this  
8 section. Provided further, no lien affecting property then occupied  
9 as a dwelling by an owner shall be valid unless the pre-lien notice  
10 provided in this section was sent within seventy-five (75) days of  
11 the last furnishing of materials, services, labor or equipment by  
12 the claimant.

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

- 15 a. a pre-lien notice with respect to any retainage held
- 16 by agreement between an owner, contractor, or
- 17 subcontractor, or
- 18 b. more than one pre-lien notice during the course of a
- 19 construction project in which material, services,
- 20 labor, or equipment is furnished.

21 A pre-lien notice sent in compliance with this section for the  
22 supply of material, services, labor, or equipment that entitles or  
23 may entitle a claimant to lien rights shall protect the claimant's  
24

1 lien rights for any subsequent supply of material, services, labor,  
2 or equipment furnished during the course of a construction project.

3 3. ~~The~~ Except as otherwise required in paragraph 1 of this  
4 subsection, the pre-lien notice requirements shall not apply to a  
5 claimant:

6 a. whose claim relates to the supply of material,  
7 services, labor, or equipment furnished in connection  
8 with a residential project. For the purposes of this  
9 subparagraph, the term "residential" shall mean a  
10 single family or multifamily project of four or fewer  
11 dwelling units, none of which are occupied by an  
12 owner, or

13 b. whose aggregate claim is less than ~~Two Thousand Five~~  
14 ~~Hundred Dollars (\$2,500.00)~~ Ten Thousand Dollars  
15 (\$10,000.00).

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

- 18 a. a statement that the notice is a pre-lien notice,  
19 b. the complete name, address, and telephone number of  
20 the claimant, or the claimant's representative,  
21 c. the date of supply of material, services, labor, or  
22 equipment,  
23 d. a description of the material, services, labor, or  
24 equipment,

- 1 e. the name and last-known address of the person who  
2 requested that the claimant provide the material,  
3 services, labor, or equipment,  
4 f. the address, legal description, or location of the  
5 property to which the material, services, labor, or  
6 equipment has been supplied,  
7 g. a statement ~~that~~ of the dollar amount of the material,  
8 services, labor, or equipment furnished or to be  
9 furnished ~~exceeds Two Thousand Five Hundred Dollars~~  
10 ~~(\$2,500.00)~~, and  
11 h. the signature of the claimant, or the claimant's  
12 representative.

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

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

23 6. The claimant may request in writing, the request to be sent  
24 in the manner as provided in paragraph 5 of this subsection, that

1 the original contractor provide to the claimant the name and last-  
2 known address of ~~the~~ an owner of the property. Failure of the  
3 original contractor to provide the claimant with the information  
4 requested within five (5) days from the date of receipt of the  
5 request shall render the pre-lien notice requirement to the owner of  
6 the property unenforceable.

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

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

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

20 SECTION 3. This act shall become effective November 1, 2011.

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