

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 473 Session of 2013

INTRODUCED BY KILLION, MUSTIO, EVANKOVICH, FABRIZIO, C. HARRIS, AUMENT, KORTZ, R. MILLER, MILNE, MURT, FARRY, GILLEN, TURZAI, WATSON AND QUINN, JANUARY 30, 2013

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 26, 2013

AN ACT

~~Amending the act of August 24, 1963 (P.L.1175, No.497), entitled <-- "An act to codify, amend, revise and consolidate the laws relating to mechanics' liens," further providing for definitions; and providing for State Construction Notices Directory and for notice of commencement and furnishing requirements.~~

AMENDING THE ACT OF AUGUST 24, 1963 (P.L.1175, NO.497), ENTITLED <-- "AN ACT TO CODIFY, AMEND, REVISE AND CONSOLIDATE THE LAWS RELATING TO MECHANICS' LIENS," FURTHER PROVIDING FOR DEFINITIONS; AND PROVIDING FOR STATE CONSTRUCTION NOTICES DIRECTORY AND FOR NOTICE OF COMMENCEMENT AND FURNISHING REQUIREMENTS.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

~~Section 1. Section 201 of the act of August 24, 1963 <-- (P.L.1175, No.497), known as the Mechanics' Lien Law of 1963, is amended by adding paragraphs to read:~~

~~Section 201. Definitions. The following words, terms and phrases when used in this act shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~***~~

1 ~~(15) "Department" means the Department of Labor and~~
2 ~~Industry.~~

3 ~~(16) "Directory" means the State Construction Notices~~
4 ~~Directory in section 501.1.~~

5 Section 2. The act is amended by adding sections to read:

6 ~~Section 501.1. State Construction Notices Directory.~~

7 ~~(a) Establishment of Directory. The department shall~~
8 ~~establish an Internet website to be known as the State~~
9 ~~Construction Notices Directory.~~

10 ~~(b) Third party Administration. The department may contract~~
11 ~~with a third party vendor to establish and administer the~~
12 ~~Internet website.~~

13 ~~(c) Purpose of Directory. The directory shall:~~

14 ~~(1) Serve primarily as a means for contractors and~~
15 ~~subcontractors to readily locate notices of commencement filed~~
16 ~~under section 501.2(a).~~

17 ~~(2) Act as a central Statewide repository for notices filed~~
18 ~~under section 501.2.~~

19 ~~(d) Operational Date. The department shall have the~~
20 ~~directory operational on July 1, 2015. The department may,~~
21 ~~however, establish a later effective date, if it provides~~
22 ~~sufficient reasons for the delay in the implementation of the~~
23 ~~program in a notice to the chairman and minority chairman of the~~
24 ~~Labor and Industry Committee of the Senate and the chairman and~~
25 ~~minority chairman of the Labor and Industry Committee of the~~
26 ~~House of Representatives.~~

27 ~~(e) Public Awareness. When appropriate, the department shall~~
28 ~~publish notice in the Pennsylvania Bulletin advising the public~~
29 ~~of plans for and the existence of the directory. The department~~
30 ~~shall take reasonable measures to inform the general public of~~

1 ~~the directory and its purpose.~~

2 ~~(f) Directory Fees. The department may assess filing fees to~~
3 ~~owners filing notices under section 501.2(a) to cover the costs~~
4 ~~of administration. If a contracted third party vendor is~~
5 ~~administering the website, the assessed fees must be designated~~
6 ~~in the contract. The department shall:~~

7 ~~(1) Consider the fee levels in awarding a contract.~~

8 ~~(2) Ensure the fee levels are as favorable as possible to~~
9 ~~users.~~

10 ~~(g) Posting of Notices. The directory shall:~~

11 ~~(1) Make public notices filed under section 501.2 in a job~~
12 ~~site specific format.~~

13 ~~(2) Provide copies of the filings of notice of furnishing~~
14 ~~under section 501.2(b) to an owner who files a notice of~~
15 ~~commencement under section 501.2(a).~~

16 ~~(3) Provide hard copy printing of electronic receipts for an~~
17 ~~individual filing evidencing the date and time of the individual~~
18 ~~filing and the content of the individual filing.~~

19 ~~(4) List the notices of furnishing filed with a notice of~~
20 ~~commencement.~~

21 ~~(h) Index. The directory must be primarily indexed by~~
22 ~~county, and a notice of commencement filed with the directory~~
23 ~~shall be searchable by owner name, contractor name, property~~
24 ~~address or other identifying features that the department~~
25 ~~believes are necessary.~~

26 ~~Section 501.2. Notice of Commencement and Furnishing~~
27 ~~Requirements.~~

28 ~~(a) Notice of Commencement.~~

29 ~~(1) Prior to commencing labor or work or furnishing~~
30 ~~materials for an improvement on real property that may give rise~~

1 ~~to a mechanics' lien under this act, the owner or agent of the~~
2 ~~owner may file a notice of commencement with the State~~
3 ~~Construction Notices Directory. The notice must include the~~
4 ~~following:~~

5 ~~(i) Name, address and e mail address of the contractor.~~

6 ~~(ii) Name and location of the project being constructed.~~

7 ~~(iii) Legal description of the property upon which the~~
8 ~~improvements are being made.~~

9 ~~(iv) Name, address and e mail address of the legal record~~
10 ~~owner of the property.~~

11 ~~(v) Name, address and e mail address of the person other~~
12 ~~than the owner at whose direction the improvements are being~~
13 ~~made, if that person is not the true legal record owner of the~~
14 ~~property.~~

15 ~~(vi) If applicable, the name, address and e mail address of~~
16 ~~a surety for the performance and payment bonds.~~

17 ~~(2) The owner shall conspicuously post a copy of the notice~~
18 ~~at the project site before physical work commences upon the~~
19 ~~property, and the owner shall take reasonable measures to insure~~
20 ~~that the copy of the notice of commencement remains posted at~~
21 ~~the project site for the duration of the project. For the~~
22 ~~purposes of this paragraph, the term "reasonable measures" means~~
23 ~~the reposting of notice by the owner within 48 hours after being~~
24 ~~notified in writing or e mail that the notice is not posted.~~

25 ~~(b) Notice of Furnishing. A subcontractor that performs work~~
26 ~~or services or provides material in furtherance of an~~
27 ~~improvement to property shall, if a notice of commencement has~~
28 ~~been properly and timely filed under subsection (a), as a~~
29 ~~condition of retaining lien rights under section 301:~~

30 ~~(1) Have a positive duty to monitor the State Construction~~

1 ~~Notices Directory to identify appropriate notices of~~
2 ~~commencement.~~

3 ~~(2) Substantially comply with the following to file a notice~~
4 ~~of furnishing:~~

5 ~~(i) Subject to subparagraph (v) (A), the subcontractor shall~~
6 ~~file notice upon the owner within twenty (20) days after first~~
7 ~~performing work or services or first providing materials in~~
8 ~~connection with the improvement of the property.~~

9 ~~(ii) The notice must be served in one of the following~~
10 ~~manners:~~

11 ~~(A) Certified mail to the owner's address.~~

12 ~~(B) Personal delivery to the owner. Evidence of delivery~~
13 ~~must be an acknowledgment signed by the owner.~~

14 ~~(C) Filing of notice on the State Construction Notices~~
15 ~~Directory.~~

16 ~~(iii) The notice must contain, at a minimum, the following:~~

17 ~~(A) A general description of the labor, skill, materials,~~
18 ~~fixtures, machinery or tools furnished.~~

19 ~~(B) Name and address of the person supplying items in clause~~
20 ~~(A).~~

21 ~~(C) Name and address of the person that contracted for the~~
22 ~~items in clause (A).~~

23 ~~(D) A description sufficient to identify the property which~~
24 ~~is being improved.~~

25 ~~(iv) The notice must be substantially in the following form:~~

26 ~~Notice of Furnishing~~

27 ~~(For use in connection with improvements to property other~~
28 ~~than public improvements)~~

29 ~~TO: _____~~

30 ~~(Name of owner)~~

1 _____

2 ~~(Address of owner)~~

3 ~~Please take notice that the undersigned is performing~~
4 ~~certain work or labor or furnishing certain materials~~
5 ~~to _____ (Name and address of other contracting~~
6 ~~party) in connection with the improvement to the real property~~
7 ~~located at _____ . The labor, work or materials~~
8 ~~were performed or furnished first, or will be furnished first on~~
9 ~~(date).~~

10 _____

11 ~~(Name and Address of Lien Claimant~~

12 ~~By~~

13 ~~(Name and capacity of party signing for lien claimant)~~

14 _____

15 ~~(Address of Signing Party)~~

16 _____

17 ~~(Date)~~

18 ~~(v) Filing of a notice under this subsection preserves the~~
19 ~~lien rights of a subcontractor in compliance with this act as~~
20 ~~follows:~~

21 ~~(A) For amounts owing for work and services performed and~~
22 ~~materials furnished from the date the work or services were~~
23 ~~first performed or materials were first furnished through the~~
24 ~~date of service of the notice of furnishing and thereafter.~~

25 ~~(B) A notice delivered outside the time frame under~~
26 ~~subparagraph (i) preserves the right to file a lien which is~~
27 ~~only enforceable for the services or materials furnished within~~
28 ~~the period of twenty (20) days before the date on which notice~~
29 ~~is given and thereafter.~~

30 ~~(vi) If a subcontractor does not substantially comply with~~

1 ~~this subsection, the subcontractor forfeits the right to file a~~
2 ~~lien claim.~~

3 ~~(c) Construction. Subsection (b) may not be interpreted to~~
4 ~~affect the ability of a subcontractor or contractor to waive his~~
5 ~~lien rights under sections 401 and 402.~~

6 ~~(d) Public Policy.~~

7 ~~(1) It is against public policy and unlawful for a~~
8 ~~contractor or subcontractor to request or require that a~~
9 ~~subcontractor not file a notice of furnishing as required to~~
10 ~~maintain his lien rights, in order that the subcontractor may~~
11 ~~enter into or maintain a contract for work or furnishing of~~
12 ~~materials on an improvement.~~

13 ~~(2) A subcontractor has the right to file a lien for the~~
14 ~~work and services performed and the materials furnished under~~
15 ~~this act, irrespective of compliance with section 501.2(b), if~~
16 ~~he proves that the failure to comply with section 501.2(b) was~~
17 ~~directly the result of a contractor or subcontractor violating~~
18 ~~paragraph (1).~~

19 ~~Section 3. The addition of section 501.2 of the act shall~~
20 ~~take effect July 1, 2015, or on the date designated by the~~
21 ~~Department of Labor and Industry.~~

22 ~~Section 4. This act shall take effect in 60 days.~~

23 SECTION 1. SECTION 201 OF THE ACT OF AUGUST 24, 1963 <--
24 (P.L.1175, NO.497), KNOWN AS THE MECHANICS' LIEN LAW OF 1963, IS
25 AMENDED BY ADDING PARAGRAPHS TO READ:

26 SECTION 201. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
27 PHRASES WHEN USED IN THIS ACT SHALL HAVE THE MEANING ASCRIBED TO
28 THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES
29 A DIFFERENT MEANING:

30 * * *

1 (16) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
2 INDUSTRY.

3 (17) "DIRECTORY" MEANS THE STATE CONSTRUCTION NOTICES
4 DIRECTORY IN SECTION 501.1.

5 SECTION 2. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:
6 SECTION 501.1. STATE CONSTRUCTION NOTICES DIRECTORY.--

7 (A) ESTABLISHMENT OF DIRECTORY. THE DEPARTMENT SHALL
8 ESTABLISH AN INTERNET WEBSITE TO BE KNOWN AS THE STATE
9 CONSTRUCTION NOTICES DIRECTORY.

10 (B) THIRD-PARTY ADMINISTRATION. THE DEPARTMENT MAY CONTRACT
11 WITH A THIRD-PARTY VENDOR TO ESTABLISH AND ADMINISTER THE
12 INTERNET WEBSITE.

13 (C) PURPOSE OF DIRECTORY. THE DIRECTORY SHALL SERVE
14 PRIMARILY AS A STANDARDIZED STATEWIDE SYSTEM FOR FILING NOTICES
15 AS MAY BE REQUIRED BY SECTION 501.2.

16 (D) OPERATIONAL DATE. THE DEPARTMENT SHALL HAVE THE
17 DIRECTORY OPERATIONAL ON JULY 1, 2015. THE DEPARTMENT MAY,
18 HOWEVER, ESTABLISH A LATER EFFECTIVE DATE, IF IT PROVIDES
19 SUFFICIENT REASONS FOR THE DELAY IN THE IMPLEMENTATION OF THE
20 PROGRAM IN A NOTICE TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
21 LABOR AND INDUSTRY COMMITTEE OF THE SENATE AND THE CHAIRMAN AND
22 MINORITY CHAIRMAN OF THE LABOR AND INDUSTRY COMMITTEE OF THE
23 HOUSE OF REPRESENTATIVES.

24 (E) PUBLIC AWARENESS. WHEN APPROPRIATE, THE DEPARTMENT SHALL
25 PUBLISH NOTICE IN THE PENNSYLVANIA BULLETIN ADVISING THE PUBLIC
26 OF PLANS FOR AND THE EXISTENCE OF THE DIRECTORY. THE DEPARTMENT
27 SHALL TAKE REASONABLE MEASURES TO INFORM THE GENERAL PUBLIC OF
28 THE DIRECTORY AND ITS PURPOSE.

29 (F) DIRECTORY FEES. THE DEPARTMENT MAY ASSESS FILING FEES TO
30 OWNERS FILING NOTICES OF COMMENCEMENT UNDER SECTION 501.2(A) TO

1 COVER THE COSTS OF ADMINISTRATION. NO FEES SHALL BE ASSESSED TO
2 SUBCONTRACTORS FILING NOTICES OF FURNISHING UNDER SECTION
3 501.2(B). IF A CONTRACTED THIRD-PARTY VENDOR IS ADMINISTERING
4 THE WEBSITE, THE ASSESSED FEES MUST BE DESIGNATED IN THE
5 CONTRACT. THE DEPARTMENT SHALL:

6 (1) CONSIDER THE FEE LEVELS IN AWARDING A CONTRACT.

7 (2) ENSURE THE FEE LEVELS ARE AS FAVORABLE AS POSSIBLE TO
8 USERS.

9 (G) PUBLISHING OF NOTICES. THE DIRECTORY SHALL:

10 (1) MAKE PUBLIC NOTICES OF COMMENCEMENT FILED UNDER SECTION
11 501.2(A) IN A JOB SITE SPECIFIC FORMAT. A UNIQUE IDENTIFYING
12 NUMBER OR CODE SHALL BE ASSIGNED TO EACH NOTICE OF COMMENCEMENT
13 THAT IS FILED.

14 (2) PROVIDE COPIES OF THE FILINGS OF NOTICE OF FURNISHING
15 UNDER SECTION 501.2(B) TO AN OWNER WHO FILES A NOTICE OF
16 COMMENCEMENT UNDER SECTION 501.2(A).

17 (3) PROVIDE HARD COPY PRINTING OF ELECTRONIC RECEIPTS FOR
18 EACH NOTICE OF COMMENCEMENT AND NOTICE OF FURNISHING FILED UNDER
19 SECTION 501.2 EVIDENCING THE DATE AND TIME OF THE INDIVIDUAL
20 FILING AND THE CONTENT OF THE INDIVIDUAL FILING.

21 (4) LIST ALL NOTICES OF FURNISHING FILED WITH RESPECT TO A
22 PARTICULAR NOTICE OF COMMENCEMENT, AND LIST ANY NOTICE OF
23 COMPLETION FILED TO A PARTICULAR NOTICE OF COMMENCEMENT.

24 (5) PROVIDE A VERIFICATION PROCESS WHEREBY THOSE FILING
25 REQUIRED NOTICES IN THE DIRECTORY CAN CONFIRM THE PROPER
26 INDEXING AND LINKAGE OF THEIR FILINGS.

27 (H) INDEX. THE DIRECTORY MUST BE PRIMARILY INDEXED BY
28 COUNTY, AND A NOTICE OF COMMENCEMENT FILED WITH THE DIRECTORY
29 SHALL BE SEARCHABLE, AT MINIMUM, BY OWNER NAME, CONTRACTOR NAME,
30 PROPERTY ADDRESS, THE UNIQUE IDENTIFYING NUMBER OR CODE THAT IS

1 ASSIGNED TO IT UNDER PARAGRAPH (G) (1) AND BY ANY OTHER
2 IDENTIFYING FEATURES THAT THE DEPARTMENT BELIEVES ARE NECESSARY.

3 (I) ERRORS AND OMISSION INSURANCE. THE DEPARTMENT SHALL
4 REQUIRE A THIRD-PARTY VENDOR TO CARRY ERRORS AND OMISSIONS
5 INSURANCE IN AMOUNTS DETERMINED TO BE NECESSARY.

6 SECTION 501.2. NOTICE OF COMMENCEMENT, NOTICE OF FURNISHING
7 AND INFORMATIONAL NOTICE OF COMPLETION REQUIREMENTS.--

8 (A) NOTICE OF COMMENCEMENT.

9 (1) PRIOR TO ALLOWING THE COMMENCEMENT OF LABOR OR WORK OR
10 THE FURNISHING OF MATERIALS FOR AN IMPROVEMENT ON REAL PROPERTY
11 THAT MAY GIVE RISE TO A MECHANICS' LIEN UNDER THIS ACT, THE
12 OWNER OR AGENT OF THE OWNER MAY FILE A NOTICE OF COMMENCEMENT
13 WITH THE STATE CONSTRUCTION NOTICES DIRECTORY; PROVIDED THAT A
14 CONTRACTOR MAY FILE A NOTICE OF COMMENCEMENT FOR THE OWNER IF
15 SUCH AUTHORITY IS SPECIFICALLY AUTHORIZED IN THE CONTRACT
16 BETWEEN THE OWNER AND CONTRACTOR, AND THE OWNER ASSUMES
17 RESPONSIBILITY FOR THE CONTRACTOR'S ACTIONS AS ITS AGENT FOR
18 FILING THE NOTICE OF COMMENCEMENT. THE NOTICE MUST INCLUDE THE
19 FOLLOWING:

20 (I) FULL NAME, ADDRESS AND E-MAIL ADDRESS OF THE CONTRACTOR.

21 (II) FULL NAME AND LOCATION OF THE PROJECT BEING
22 CONSTRUCTED.

23 (III) LEGAL DESCRIPTION OF THE PROPERTY UPON WHICH THE
24 IMPROVEMENTS ARE BEING MADE.

25 (IV) FULL NAME, ADDRESS AND E-MAIL ADDRESS OF THE LEGAL
26 RECORD OWNER OF THE PROPERTY.

27 (V) FULL NAME, ADDRESS AND E-MAIL ADDRESS OF THE PERSON
28 OTHER THAN THE OWNER AT WHOSE DIRECTION THE IMPROVEMENTS ARE
29 BEING MADE, IF THAT PERSON IS NOT THE TRUE LEGAL RECORD OWNER OF
30 THE PROPERTY.

1 (VI) IF APPLICABLE, THE FULL NAME, ADDRESS AND E-MAIL
2 ADDRESS OF A SURETY FOR THE PERFORMANCE AND PAYMENT BONDS AND
3 THE BOND NUMBERS.

4 (VII) THE UNIQUE IDENTIFYING NUMBER THAT IS ASSIGNED TO THE
5 NOTICE OF COMMENCEMENT PURSUANT TO SECTION 501.1(G) (1).

6 (2) THE OWNER, OR HIS AGENT, SHALL ALSO CONSPICUOUSLY POST A
7 COPY OF THE NOTICE OF COMMENCEMENT AT THE PROJECT SITE BEFORE
8 PHYSICAL WORK COMMENCES UPON THE PROPERTY, AND THE OWNER SHALL
9 TAKE REASONABLE MEASURES TO ENSURE THAT THE COPY OF THE NOTICE
10 OF COMMENCEMENT REMAINS POSTED AT THE PROJECT SITE FOR THE
11 DURATION OF THE PROJECT. THE COPY OF THE NOTICE OF COMMENCEMENT
12 POSTED UNDER THIS PARAGRAPH SHALL INCLUDE THE UNIQUE IDENTIFYING
13 NUMBER OR CODE ASSIGNED TO SUCH NOTICE UNDER SECTION
14 501.1(G) (1). FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM
15 "REASONABLE MEASURES" MEANS THE REPOSTING OF NOTICE BY THE OWNER
16 WITHIN 48 HOURS AFTER BEING NOTIFIED IN WRITING OR E-MAIL THAT
17 THE NOTICE IS NOT POSTED.

18 (3) THE OWNER OR HIS AGENT AND CONTRACTOR SHALL MAKE
19 REASONABLE EFFORT TO ENSURE THAT THE NOTICE OF COMMENCEMENT IS
20 MADE PART OF CONTRACT DOCUMENTS PROVIDED TO ALL CONTRACTORS
21 AWARDED WORK ON THE PROJECT.

22 (B) NOTICE OF FURNISHING. A SUBCONTRACTOR THAT PERFORMS WORK
23 OR SERVICES OR PROVIDES MATERIAL IN FURTHERANCE OF AN
24 IMPROVEMENT TO PROPERTY SHALL, IF A NOTICE OF COMMENCEMENT HAS
25 BEEN PROPERLY INDEXED, TIMELY FILED, AND POSTED UNDER SUBSECTION
26 (A), AS A CONDITION OF RETAINING LIEN RIGHTS UNDER SECTION 301:

27 (1) SUBSTANTIALLY COMPLY WITH THE FOLLOWING TO FILE A NOTICE
28 OF FURNISHING:

29 (I) SUBJECT TO SUBPARAGRAPH (IV) (A), THE SUBCONTRACTOR SHALL
30 FILE A NOTICE OF FURNISHING WITH THE DIRECTORY WITHIN TWENTY

1 (20) DAYS AFTER FIRST PERFORMING WORK OR SERVICES OR FIRST
2 PROVIDING MATERIALS IN CONNECTION WITH THE IMPROVEMENT OF THE
3 PROPERTY.

4 (II) THE NOTICE MUST CONTAIN, AT A MINIMUM, THE FOLLOWING:

5 (A) A GENERAL DESCRIPTION OF THE LABOR, SKILL, MATERIALS,
6 FIXTURES, MACHINERY OR TOOLS FURNISHED.

7 (B) FULL NAME AND ADDRESS OF THE PERSON SUPPLYING ITEMS IN
8 CLAUSE (A).

9 (C) FULL NAME AND ADDRESS OF THE PERSON THAT CONTRACTED FOR
10 THE ITEMS IN CLAUSE (A).

11 (D) A DESCRIPTION SUFFICIENT TO IDENTIFY THE PROPERTY WHICH
12 IS BEING IMPROVED. THE DESCRIPTION SHALL BE BASED ON THE
13 DESCRIPTION OF SUCH PROPERTY AS DESCRIBED IN THE NOTICE OF
14 COMMENCEMENT.

15 (III) THE NOTICE MUST BE SUBSTANTIALLY IN THE FOLLOWING
16 FORM:

17 NOTICE OF FURNISHING

18 (FOR USE IN CONNECTION WITH IMPROVEMENTS TO PROPERTY OTHER
19 THAN PUBLIC IMPROVEMENTS)

20 TO: _____

21 (NAME OF OWNER)

22 _____

23 (ADDRESS OF OWNER)

24 (NOTICE OF COMMENCEMENT NUMBER OR CODE)

25 PLEASE TAKE NOTICE THAT THE UNDERSIGNED IS PERFORMING

26 CERTAIN WORK OR LABOR OR FURNISHING CERTAIN MATERIALS

27 TO _____ (NAME AND ADDRESS OF OTHER

28 CONTRACTING PARTY) IN CONNECTION WITH THE IMPROVEMENT TO THE

29 REAL PROPERTY LOCATED AT _____ . THE LABOR, WORK

30 OR MATERIALS WERE PERFORMED OR FURNISHED FIRST, OR WILL BE

1 FURNISHED FIRST ON _____ (DATE) .

2 _____

3 (NAME AND ADDRESS OF LIEN CLAIMANT)

4 BY

5 (NAME AND CAPACITY OF PARTY SIGNING FOR LIEN CLAIMANT)

6 _____

7 (ADDRESS OF SIGNING PARTY)

8 _____

9 (DATE)

10 (IV) FILING OF A NOTICE OF FURNISHING UNDER THIS SUBSECTION
11 PRESERVES THE LIEN RIGHTS OF A SUBCONTRACTOR IN COMPLIANCE WITH
12 THIS ACT AS FOLLOWS:

13 (A) FOR AMOUNTS OWING FOR WORK AND SERVICES PERFORMED AND
14 MATERIALS FURNISHED FROM THE DATE THE WORK OR SERVICES WERE
15 FIRST PERFORMED OR MATERIALS WERE FIRST FURNISHED THROUGH THE
16 DATE OF FILING OF THE NOTICE OF FURNISHING AND THEREAFTER.

17 (B) A NOTICE OF FURNISHING FILED OUTSIDE THE TIME FRAME
18 UNDER SUBPARAGRAPH (I) PRESERVES THE RIGHT TO FILE A LIEN WHICH
19 IS ONLY ENFORCEABLE FOR THE SERVICES OR MATERIALS FURNISHED
20 WITHIN THE PERIOD OF TWENTY (20) DAYS BEFORE THE DATE ON WHICH
21 NOTICE IS FILED AND THEREAFTER.

22 (V) IF A SUBCONTRACTOR DOES NOT SUBSTANTIALLY COMPLY WITH
23 THIS SUBSECTION, THE SUBCONTRACTOR FORFEITS THE RIGHT TO FILE A
24 LIEN CLAIM.

25 (VI) A SUBCONTRACTOR THAT FILES A NOTICE OF FURNISHING UNDER
26 THIS SUBSECTION SHALL NOT BE REQUIRED TO SERVE THE OWNER A
27 FORMAL NOTICE OF THEIR INTENT TO FILE A LIEN AS REQUIRED UNDER
28 SECTION 501(B.1) TO PRESERVE LIEN RIGHTS.

29 (C) NOTICE OF COMPLETION FOR INFORMATIONAL PURPOSES.

30 (1) ANY TIME AFTER ACTUAL COMPLETION OF WORK ON A REAL

1 PROPERTY, AN OWNER, OR HIS AGENT, MAY FILE A NOTICE OF
2 COMPLETION IN THE DIRECTORY TO BE INDEXED UNDER ORIGINAL NOTICE
3 OF COMMENCEMENT. THE NOTICE SHALL BE TRANSMITTED VIA THE
4 DIRECTORY TO ALL SUBCONTRACTORS WHO HAVE FILED NOTICES OF
5 FURNISHING. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "ACTUAL
6 COMPLETION OF WORK" SHALL MEAN THE FOLLOWING:

7 (I) THE ISSUANCE OF AN OCCUPANCY PERMIT TO THE OWNER, OR HIS
8 AGENT, AND THE ACCEPTANCE BY THE OWNER, OR HIS AGENT, OF THE
9 WORK ACCOMPANIED BY CESSATION OF ALL WORK ON THE PROJECT; OR

10 (II) THE CESSATION OF ALL WORK ON THE PROJECT FOR THIRTY
11 (30) CONSECUTIVE DAYS PROVIDED THAT WORK IS NOT RESUMED UNDER
12 THE SAME CONTRACT.

13 (2) SUBCONTRACTORS WHO HAVE NOT RECEIVED FULL PAYMENT FOR
14 THEIR WORK ON THE PROJECT MAY FILE A NOTICE OF NON-PAYMENT WITH
15 THE OWNER, OR HIS AGENT, IN THE DIRECTORY FOR INFORMATIONAL
16 PURPOSES. THE FAILURE TO FILE A NOTICE OF COMPLETION BY A
17 SUBCONTRACTOR SHALL NOT BE CONSTRUED TO AFFECT OR LIMIT THEIR
18 LIEN RIGHTS UNDER THIS ACT.

19 (D) CONSTRUCTION. SUBSECTION (B) SHALL NOT BE INTERPRETED TO
20 AFFECT THE ABILITY OF A SUBCONTRACTOR OR CONTRACTOR TO WAIVE HIS
21 LIEN RIGHTS UNDER SECTIONS 401 AND 402 OF THIS ACT.

22 (E) PUBLIC POLICY.

23 (1) IT IS AGAINST PUBLIC POLICY AND UNLAWFUL FOR AN OWNER OR
24 OWNER'S AGENT, A CONTRACTOR OR SUBCONTRACTOR, TO REQUEST OR
25 REQUIRE THAT A SUBCONTRACTOR NOT FILE A NOTICE OF FURNISHING AS
26 REQUIRED TO MAINTAIN LIEN RIGHTS, IN ORDER THAT THE
27 SUBCONTRACTOR MAY ENTER INTO OR MAINTAIN A CONTRACT FOR WORK OR
28 FURNISHING OF MATERIALS ON AN IMPROVEMENT.

29 (2) A SUBCONTRACTOR HAS THE RIGHT TO FILE A LIEN FOR THE
30 WORK AND SERVICES PERFORMED AND THE MATERIALS FURNISHED UNDER

1 THIS ACT, IRRESPECTIVE OF COMPLIANCE WITH SECTION 501.2(B), IF
2 THE SUBCONTRACTOR PROVES THAT THE FAILURE TO COMPLY WITH SECTION
3 501.2(B) WAS DIRECTLY THE RESULT OF AN OWNER OR OWNER'S AGENT, A
4 CONTRACTOR OR SUBCONTRACTOR, VIOLATING PARAGRAPH (1).

5 (3) A SUBCONTRACTOR MAY BRING A CIVIL CAUSE OF ACTION IF THE
6 SUBCONTRACTOR PROVES THAT FAILURE TO COMPLY WITH SECTION
7 501.2(B) WAS DIRECTLY THE RESULT OF AN OWNER OR OWNER'S AGENT,
8 OR A CONTRACTOR OR SUBCONTRACTOR, VIOLATING PARAGRAPH (1) IN
9 ORDER TO RECOVER DAMAGES FOR ANY LOSS OR INJURY SUSTAINED AS A
10 RESULT OF THE VIOLATION FROM THE PERSON OR PERSONS COMMITTING
11 THE VIOLATION. A COURT OF COMPETENT JURISDICTION MAY AWARD TO
12 THE SUBCONTRACTOR ACTUAL DAMAGES ARISING FROM THE VIOLATION,
13 REASONABLE ATTORNEYS FEES AND COURT COSTS.

14 (F) APPLICABILITY. THIS SECTION SHALL NOT APPLY TO WORK OR
15 LABOR ON A RESIDENTIAL PROPERTY.

16 SECTION 3. THE NOTICE PROVISIONS OF SECTION 501.2 OF THE ACT
17 SHALL TAKE EFFECT JULY 1, 2015, OR ON THE DATE DESIGNATED BY THE
18 DEPARTMENT OF LABOR AND INDUSTRY AS THE OPERATIONAL DATE OF THE
19 STATE CONSTRUCTION NOTICES DIRECTORY UNDER SECTION 501.1(D). THE
20 NOTICE PROVISIONS OF SECTION 501.2 SHALL ONLY APPLY TO PROJECTS
21 COMMENCED ON OR AFTER THE OPERATIONAL DATE OF THE DIRECTORY.

22 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 30 DAYS.