

HOUSE BILL NO. 252

INTRODUCED BY FORRESTER, QUILICI, WILLIAMS,
T. BECK, DRISCOLL, SCOTT, LYNCH, DOHERTY

IN THE HOUSE

JANUARY 18, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & ECONOMIC DEVELOPMENT.

 FIRST READING.

JANUARY 21, 1991 ON MOTION, REREFERRED TO COMMITTEE
ON JUDICIARY.

FEBRUARY 4, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 5, 1991 PRINTING REPORT.

FEBRUARY 6, 1991 ON MOTION, CONSIDERATION PASSED.

FEBRUARY 7, 1991 SECOND READING, DO PASS AS AMENDED.

FEBRUARY 8, 1991 ENGROSSING REPORT.

FEBRUARY 9, 1991 THIRD READING, PASSED.
AYES, 88; NOES, 6.

 TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 11, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & INDUSTRY.

 FIRST READING.

MARCH 21, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 22, 1991 ON MOTION, CONSIDERATION PASSED
UNTIL THE 63RD LEGISLATIVE DAY.

MARCH 23, 1991 ON MOTION, CONSIDERATION PASSED
UNTIL THE 64TH LEGISLATIVE DAY.

MARCH 26, 1991 SECOND READING, CONCURRED IN AS
AMENDED.

MARCH 27, 1991

THIRD READING, CONCURRED IN.
AYES, 35; NOES, 15.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 17, 1991

RECEIVED FROM SENATE.

APRIL 8, 1991

ON MOTION, CONSIDERATION PASSED.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 10, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *252*
 2 INTRODUCED BY *Forrest Lulien Miller - Bal*
 3 *Richard Smith Lynn Doney*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE
 5 CONSTRUCTION LIEN LAW; ALLOWING 45 DAYS TO GIVE NOTICE OF
 6 THE RIGHT TO CLAIM A CONSTRUCTION LIEN; AMENDING SECTIONS
 7 71-3-531 AND 71-3-532, MCA; AND PROVIDING AN IMMEDIATE
 8 EFFECTIVE DATE."
 9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 71-3-531, MCA, is amended to read:

12 "71-3-531. Notice of right to claim a lien required --
 13 exceptions. (1) The following are not required to give
 14 notice of a right to claim a lien as required by this
 15 section:

16 (a) a person who furnishes services or materials
 17 directly to the owner at his request;

18 (b) a wage earner or laborer who performs personal
 19 labor services for a person furnishing any service or
 20 material pursuant to a real estate improvement contract;

21 (c) a person who furnishes services or materials
 22 pursuant to a real estate improvement contract that relates
 23 to a dwelling for five or more families; and

24 (d) a person who furnishes services or materials
 25 pursuant to a real estate improvement contract that relates

1 to an improvement that is partly or wholly commercial in
 2 character.

3 (2) A person who may claim a construction lien pursuant
 4 to this part shall give notice of his right to claim a lien
 5 to the contracting owner in order to claim a lien.

6 (3) This notice must be given no later than ~~20~~ 45 days
 7 after the date on which the services or materials are first
 8 furnished to the contracting owner. If notice is not given
 9 within this period, a lien is enforceable only for the
 10 services or materials furnished within the ~~20-day~~ 45-day
 11 period before the date on which notice is given.

12 (4) The notice of the right to claim a lien must be
 13 sent to the contracting owner by certified mail or delivered
 14 personally to him. Notice by certified mail is effective on
 15 the date the notice is mailed.

16 (5) (a) A person who may claim a lien shall also file
 17 with the clerk and recorder of the county in which the
 18 improved real estate is located a copy of the notice of the
 19 right to claim a lien, in the form required by 71-3-532.
 20 This copy must be filed no later than 5 business days after
 21 the date on which the notice of the right to claim a lien is
 22 given to the contracting owner.

23 (b) The notice filed with the clerk and recorder for
 24 the purpose of public notice is effective for 1 year from
 25 the date of filing. ~~Such~~ The notice lapses upon the

1 expiration of the 1-year period unless the person who may
2 claim a lien files with the clerk and recorder a 1-year
3 continuation of the notice prior to the date on which the
4 notice lapses. The clerk and recorder may remove the notice
5 from the public record when it lapses.

6 (c) The continuation statement must include:
7 (i) the clerk and recorder's file number of the notice;
8 (ii) the date on which the notice originally was filed;
9 and
10 (iii) the name of the person to whom the original notice
11 was given.

12 (d) If a notice of a right to claim a lien is required
13 under this section, a person may not claim a construction
14 lien pursuant to this part unless there is an unexpired
15 notice of right to claim a construction lien or an unexpired
16 continuation notice filed with the clerk and recorder at the
17 time he files his lien.

18 (6) At the request of any subcontractor or material
19 supplier who may claim a lien through him, a person shall
20 furnish to the requestor within 5 business days:

- 21 (a) a description of sufficient to identify the real
22 estate being improved, ~~sufficient to identify it~~; and
- 23 (b) the name and address of the contracting owner."

24 **Section 2.** Section 71-3-532, MCA, is amended to read:
25 "71-3-532. Content of notice of right to claim a lien.

1 (1) The notice of the right to claim a lien must be in
2 writing and state that it is a notice of a right to claim a
3 lien against real estate for services or materials furnished
4 in connection with improvement of the real estate.

5 (2) The notice must contain a description sufficient to
6 identify the real estate against which the lien may be
7 claimed.

8 (3) The notice must contain the following information
9 and be in substantially the following form:

10 NOTICE OF THE RIGHT TO CLAIM A LIEN
11 WARNING: READ THIS NOTICE. PROTECT YOURSELF FROM PAYING ANY
12 CONTRACTOR OR SUPPLIER TWICE FOR THE SAME SERVICE.
13 To:..... Date of mailing:

14 (Owner)
15
16 (Owner's address)

17 This is to inform you that has begun to
18 provide (description of services or materials)
19 ordered by for improvements to property you own.
20 The property is located at

21 A lien may be claimed for all services and materials
22 furnished to you, if this notice is given to you within ~~20~~
23 45 days after the date on which the services or materials
24 described are first furnished to you. If the notice is not
25 given within that time, a lien is enforceable for only the

1 services or materials furnished within the 20-day 45-day
2 period before the date on which the notice is given.

3 Even if you or your mortgage lender have made full
4 payment to the contractor who ordered these services or
5 materials, your property may still be subject to a lien
6 unless the subcontractor or material supplier providing this
7 notice is paid. THIS IS NOT A LIEN. It is a notice sent to
8 you for your protection in compliance with the construction
9 lien laws of the state of Montana.

10 This notice has been sent to you by:

11 NAME:..... IF YOU HAVE ANY QUESTIONS
12 ADDRESS:..... ABOUT THIS NOTICE, PLEASE
13 TELEPHONE:..... CALL US

14 IMPORTANT INFORMATION ON REVERSE SIDE

15 _____
16 IMPORTANT INFORMATION FOR YOUR PROTECTION

17 Under Montana's laws, those who work on your property or
18 provide materials and are not paid have a right to enforce
19 their claim for payment against your property. This claim is
20 known as a construction lien.

21 If your contractor fails to pay subcontractors or
22 material suppliers or neglects to make other legally
23 required payments, the people who are owed money may look to
24 your property for payment, even if you have paid your
25 contractor in full.

1 The law states that all people hired by a contractor to
2 provide you with services or materials are required to give
3 you a notice of the right to claim a lien to let you know
4 what they have provided.

5 WAYS TO PROTECT YOURSELF ARE:

6 -- RECOGNIZE that this notice of delivery of services or
7 materials may result in a lien against your property unless
8 all those supplying a notice of the right to lien have been
9 paid.

10 -- LEARN more about the construction lien laws and the
11 meaning of this notice by contacting an attorney or the firm
12 sending this notice.

13 -- WHEN PAYING your contractor for services or
14 materials, you may make checks payable jointly to the
15 contractor and the firm furnishing services or materials for
16 which you have received a notice of the right to claim a
17 lien.

18 -- OBTAIN EVIDENCE that all firms from whom you have
19 received a notice of the right to claim a lien have been
20 paid or have waived the right to claim a lien against your
21 property.

22 -- CONSULT an attorney, a professional escrow company,
23 or your mortgage lender."

24 NEW SECTION. Section 3. Saving clause. [This act] does
25 not affect rights and duties that matured, penalties that

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1 were incurred, or proceedings that were begun before [the
2 effective date of this act].

3 NEW SECTION. **Section 4.** Effective date. [This act] is
4 effective on passage and approval.

-End-

HOUSE BILL NO. 252

INTRODUCED BY FORRESTER, QUILICI, WILLIAMS,
T. BECK, DRISCOLL, SCOTT, LYNCH, DOHERTY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE
CONSTRUCTION LIEN LAW; ALLOWING ~~45~~ 30 DAYS TO GIVE NOTICE OF
THE RIGHT TO CLAIM A CONSTRUCTION LIEN; AMENDING SECTIONS
71-3-531 AND 71-3-532, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-531, MCA, is amended to read:

"71-3-531. Notice of right to claim a lien required --
exceptions. (1) The following are not required to give
notice of a right to claim a lien as required by this
section:

(a) a person who furnishes services or materials
directly to the owner at his request;

(b) a wage earner or laborer who performs personal
labor services for a person furnishing any service or
material pursuant to a real estate improvement contract;

(c) a person who furnishes services or materials
pursuant to a real estate improvement contract that relates
to a dwelling for five or more families; and

(d) a person who furnishes services or materials

pursuant to a real estate improvement contract that relates
to an improvement that is partly or wholly commercial in
character.

(2) A person who may claim a construction lien pursuant
to this part shall give notice of his right to claim a lien
to the contracting owner in order to claim a lien.

(3) This notice must be given no later than ~~20~~ 45 30
days after the date on which the services or materials are
first furnished to the contracting owner. If notice is not
given within this period, a lien is enforceable only for the
services or materials furnished within the ~~20-day~~ 45-day
30-DAY period before the date on which notice is given.

(4) The notice of the right to claim a lien must be
sent to the contracting owner by certified mail or delivered
personally to him. Notice by certified mail is effective on
the date the notice is mailed.

(5) (a) A person who may claim a lien shall also file
with the clerk and recorder of the county in which the
improved real estate is located a copy of the notice of the
right to claim a lien, in the form required by 71-3-532.
This copy must be filed no later than 5 business days after
the date on which the notice of the right to claim a lien is
given to the contracting owner.

(b) The notice filed with the clerk and recorder for
the purpose of public notice is effective for 1 year from

SECOND READING

1 the date of filing. Such The notice lapses upon the
2 expiration of the 1-year period unless the person who may
3 claim a lien files with the clerk and recorder a 1-year
4 continuation of the notice prior to the date on which the
5 notice lapses. The clerk and recorder may remove the notice
6 from the public record when it lapses.

- 7 (c) The continuation statement must include:
- 8 (i) the clerk and recorder's file number of the notice;
- 9 (ii) the date on which the notice originally was filed;
- 10 and
- 11 (iii) the name of the person to whom the original notice
12 was given.

13 (d) If a notice of a right to claim a lien is required
14 under this section, a person may not claim a construction
15 lien pursuant to this part unless there is an unexpired
16 notice of right to claim a construction lien or an unexpired
17 continuation notice filed with the clerk and recorder at the
18 time he files his lien.

19 (6) At the request of any subcontractor or material
20 supplier who may claim a lien through him, a person shall
21 furnish to the requestor within 5 business days:

- 22 (a) a description of sufficient to identify the real
23 estate being improved, ~~sufficient to identify it~~; and
- 24 (b) the name and address of the contracting owner."

25 **Section 2.** Section 71-3-532, MCA, is amended to read:

1 **"71-3-532. Content of notice of right to claim a lien.**

2 (1) The notice of the right to claim a lien must be in
3 writing and state that it is a notice of a right to claim a
4 lien against real estate for services or materials furnished
5 in connection with improvement of the real estate.

6 (2) The notice must contain a description sufficient to
7 identify the real estate against which the lien may be
8 claimed.

9 (3) The notice must contain the following information
10 and be in substantially the following form:

11 **NOTICE OF THE RIGHT TO CLAIM A LIEN**
12 **WARNING: READ THIS NOTICE. PROTECT YOURSELF FROM PAYING ANY**
13 **CONTRACTOR OR SUPPLIER TWICE FOR THE SAME SERVICE.**

14 To:..... Date of mailing:

15 (Owner)

16

17 (Owner's address)

18 This is to inform you that has begun to
19 provide (description of services or materials)
20 ordered by for improvements to property you own.
21 The property is located at

22 A lien may be claimed for all services and materials
23 furnished to you, if this notice is given to you within **20**
24 **45 30** days after the date on which the services or materials
25 described are first furnished to you. If the notice is not

1 given within that time, a lien is enforceable for only the
2 services or materials furnished within the 20-day 45-day 30
3 period before the date on which the notice is given.

4 Even if you or your mortgage lender have made full
5 payment to the contractor who ordered these services or
6 materials, your property may still be subject to a lien
7 unless the subcontractor or material supplier providing this
8 notice is paid. THIS IS NOT A LIEN. It is a notice sent to
9 you for your protection in compliance with the construction
10 lien laws of the state of Montana.

11 This notice has been sent to you by:
12 NAME:..... IF YOU HAVE ANY QUESTIONS
13 ADDRESS:..... ABOUT THIS NOTICE, PLEASE
14 TELEPHONE:..... CALL US

15 IMPORTANT INFORMATION ON REVERSE SIDE

16
17 IMPORTANT INFORMATION FOR YOUR PROTECTION

18 Under Montana's laws, those who work on your property or
19 provide materials and are not paid have a right to enforce
20 their claim for payment against your property. This claim is
21 known as a construction lien.

22 If your contractor fails to pay subcontractors or
23 material suppliers or neglects to make other legally
24 required payments, the people who are owed money may look to
25 your property for payment, even if you have paid your

1 contractor in full.

2 The law states that all people hired by a contractor to
3 provide you with services or materials are required to give
4 you a notice of the right to claim a lien to let you know
5 what they have provided.

6 WAYS TO PROTECT YOURSELF ARE:

7 -- RECOGNIZE that this notice of delivery of services or
8 materials may result in a lien against your property unless
9 all those supplying a notice of the right to lien have been
10 paid.

11 -- LEARN more about the construction lien laws and the
12 meaning of this notice by contacting an attorney or the firm
13 sending this notice.

14 -- WHEN PAYING your contractor for services or
15 materials, you may make checks payable jointly to the
16 contractor and the firm furnishing services or materials for
17 which you have received a notice of the right to claim a
18 lien.

19 -- OBTAIN EVIDENCE that all firms from whom you have
20 received a notice of the right to claim a lien have been
21 paid or have waived the right to claim a lien against your
22 property.

23 -- CONSULT an attorney, a professional escrow company,
24 or your mortgage lender."

25 NEW SECTION. **Section 3. Saving clause.** [This act] does

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1 not affect rights and duties that matured, penalties that
2 were incurred, or proceedings that were begun before [the
3 effective date of this act].

4 NEW SECTION. **Section 4. Effective date.** [This act] is
5 effective on passage and approval.

-End-

HOUSE BILL NO. 252

INTRODUCED BY FORRESTER, QUILICI, WILLIAMS,
T. BECK, DRISCOLL, SCOTT, LYNCH, DOHERTY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE
CONSTRUCTION LIEN LAW; ALLOWING ~~45~~ 30 ~~20~~ DAYS TO GIVE NOTICE
OF THE RIGHT TO CLAIM A CONSTRUCTION LIEN; PROVIDING AN
EXCEPTION; AMENDING SECTIONS 71-3-531 AND 71-3-532, MCA; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-531, MCA, is amended to read:

**"71-3-531. Notice of right to claim a lien required --
exceptions.** (1) The following are not required to give
notice of a right to claim a lien as required by this
section:

(a) a person who furnishes services or materials
directly to the owner at his request;

(b) a wage earner or laborer who performs personal
labor services for a person furnishing any service or
material pursuant to a real estate improvement contract;

(c) a person who furnishes services or materials
pursuant to a real estate improvement contract that relates
to a dwelling for five or more families; and

(d) a person who furnishes services or materials

pursuant to a real estate improvement contract that relates
to an improvement that is partly or wholly commercial in
character.

(2) A person who may claim a construction lien pursuant
to this part shall give notice of his right to claim a lien
to the contracting owner in order to claim a lien.

(3) This EXCEPT AS PROVIDED IN SUBSECTION (4), THIS
notice must be given no later than ~~20~~ 45 ~~30~~ 20 days after
the date on which the services or materials are first
furnished to the contracting owner. If notice is not given
within this period, a lien is enforceable only for the
services or materials furnished within the ~~20-day~~ 45-day
~~30-DAY~~ 20-DAY period before the date on which notice is
given.

(4) WHERE PAYMENT FOR SERVICES OR MATERIALS FURNISHED
PURSUANT TO A REAL ESTATE IMPROVEMENT CONTRACT ARE MADE BY
OR ON BEHALF OF THE CONTRACTING PARTY FROM FUNDS PROVIDED BY
A REGULATED LENDER AND SECURED BY AN INTEREST, LIEN,
MORTGAGE OR ENCUMBRANCE FOR THE PURPOSE OF PAYING THE
PARTICULAR REAL ESTATE IMPROVEMENT BEING LIENED, THE NOTICE
REQUIRED BY THIS SECTION MUST BE GIVEN NO LATER THAN 45 DAYS
AFTER THE DATE ON WHICH THE SERVICES OR MATERIALS ARE FIRST
FURNISHED TO THE CONTRACTING OWNER. IF NOTICE IS NOT GIVEN
WITHIN THIS PERIOD, A LIEN IS ENFORCEABLE ONLY FOR THE
SERVICES OR MATERIALS FURNISHED WITHIN THE 45-DAY PERIOD

THIRD READING

HB 252

AS AMENDED



1 BEFORE THE DATE ON WHICH NOTICE IS GIVEN.

2 †4†(5) The notice of the right to claim a lien must be
3 sent to the contracting owner by certified mail or delivered
4 personally to him. Notice by certified mail is effective on
5 the date the notice is mailed.

6 †5†(6) (a) A person who may claim a lien shall also
7 file with the clerk and recorder of the county in which the
8 improved real estate is located a copy of the notice of the
9 right to claim a lien, in the form required by 71-3-532.
10 This copy must be filed no later than 5 business days after
11 the date on which the notice of the right to claim a lien is
12 given to the contracting owner.

13 (b) The notice filed with the clerk and recorder for
14 the purpose of public notice is effective for 1 year from
15 the date of filing. Such The notice lapses upon the
16 expiration of the 1-year period unless the person who may
17 claim a lien files with the clerk and recorder a 1-year
18 continuation of the notice prior to the date on which the
19 notice lapses. The clerk and recorder may remove the notice
20 from the public record when it lapses.

21 (c) The continuation statement must include:

- 22 (i) the clerk and recorder's file number of the notice;
- 23 (ii) the date on which the notice originally was filed;
- 24 and
- 25 (iii) the name of the person to whom the original notice

1 was given.

2 (d) If a notice of a right to claim a lien is required
3 under this section, a person may not claim a construction
4 lien pursuant to this part unless there is an unexpired
5 notice of right to claim a construction lien or an unexpired
6 continuation notice filed with the clerk and recorder at the
7 time he files his lien.

8 †6†(7) At the request of any subcontractor or material
9 supplier who may claim a lien through him, a person shall
10 furnish to the requestor within 5 business days:

- 11 (a) a description of sufficient to identify the real
12 estate being improved; ~~sufficient-to-identify-it~~; and
- 13 (b) the name and address of the contracting owner."

14 **Section 2.** Section 71-3-532, MCA, is amended to read:

15 **"71-3-532. Content of notice of right to claim a lien.**

16 (1) The notice of the right to claim a lien must be in
17 writing and state that it is a notice of a right to claim a
18 lien against real estate for services or materials furnished
19 in connection with improvement of the real estate.

20 (2) The notice must contain a description sufficient to
21 identify the real estate against which the lien may be
22 claimed.

23 (3) The notice must contain the following information
24 and be in substantially the following form:

25 NOTICE OF THE RIGHT TO CLAIM A LIEN

1 WARNING: READ THIS NOTICE. PROTECT YOURSELF FROM PAYING ANY
2 CONTRACTOR OR SUPPLIER TWICE FOR THE SAME SERVICE.

3 To:..... Date of mailing:

4 (Owner)

5

6 (Owner's address)

7 This is to inform you that has begun to
8 provide (description of services or materials)
9 ordered by for improvements to property you own.
10 The property is located at

11 A lien may be claimed for all services and materials
12 furnished to you, if this notice is given to you within 20
13 45 30 days after the date on which the services or materials
14 described are first furnished to you. If the notice is not
15 given within that time, a lien is enforceable for only the
16 services or materials furnished within the 20-day 45-day
17 30-DAY period before the date on which the notice is given.

18 Even if you or your mortgage lender have made full
19 payment to the contractor who ordered these services or
20 materials, your property may still be subject to a lien
21 unless the subcontractor or material supplier providing this
22 notice is paid. THIS IS NOT A LIEN. It is a notice sent to
23 you for your protection in compliance with the construction
24 lien laws of the state of Montana.

25 This notice has been sent to you by:

1 NAME:..... IF YOU HAVE ANY QUESTIONS
2 ADDRESS:..... ABOUT THIS NOTICE, PLEASE
3 TELEPHONE:..... CALL US

4 IMPORTANT INFORMATION ON REVERSE SIDE

5
6 IMPORTANT INFORMATION FOR YOUR PROTECTION

7 Under Montana's laws, those who work on your property or
8 provide materials and are not paid have a right to enforce
9 their claim for payment against your property. This claim is
10 known as a construction lien.

11 If your contractor fails to pay subcontractors or
12 material suppliers or neglects to make other legally
13 required payments, the people who are owed money may look to
14 your property for payment, even if you have paid your
15 contractor in full.

16 The law states that all people hired by a contractor to
17 provide you with services or materials are required to give
18 you a notice of the right to claim a lien to let you know
19 what they have provided.

20 WAYS TO PROTECT YOURSELF ARE:

21 -- RECOGNIZE that this notice of delivery of services or
22 materials may result in a lien against your property unless
23 all those supplying a notice of the right to lien have been
24 paid.

25 -- LEARN more about the construction lien laws and the

1 meaning of this notice by contacting an attorney or the firm
2 sending this notice.

3 -- WHEN PAYING your contractor for services or
4 materials, you may make checks payable jointly to the
5 contractor and the firm furnishing services or materials for
6 which you have received a notice of the right to claim a
7 lien.

8 -- OBTAIN EVIDENCE that all firms from whom you have
9 received a notice of the right to claim a lien have been
10 paid or have waived the right to claim a lien against your
11 property.

12 -- CONSULT an attorney, a professional escrow company,
13 or your mortgage lender."

14 NEW SECTION. **Section 3. Saving clause.** [This act] does
15 not affect rights and duties that matured, penalties that
16 were incurred, or proceedings that were begun before [the
17 effective date of this act].

18 NEW SECTION. **Section 4. Effective date.** [This act] is
19 effective on passage and approval.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 21, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 252 (third reading copy as amended - blue), respectfully report that House Bill No. 252 be amended and as so amended be concurred in:

1. Title, line 6.

Strike: "20"

Insert: "45"

2. Title, line 7.

Following: "LIEN"

Insert: "TO A REGULATED LENDER PROVIDING FUNDS FOR SERVICES OR MATERIALS"

3. Page 3, line 5.

Following: "mailed."

Insert: "If the notice is delivered, written acknowledgement of receipt must be obtained from the owner. A person may not claim a construction lien unless he has complied with this subsection."

4. Page 5, line 13.

Strike: "30"

Insert: "20"

5. Page 5, line 17.

Strike: "30-DAY"

Insert: "20-day"

6. Page 5, line 17.

Following: "given."

Insert: "However, if a regulated lender has provided the funds for the services or materials described in this notice, the notice may be given 45 days after the date the services or materials are first furnished to you. If the notice is not given within that time, a lien is enforceable for only the services or materials furnished within the 45-day period before the date the notice is given."

Signed: _____

John "J.D." Lynch, Chairman

J.A. 3-21-91
Amd. Coord.

S.B. 3-21-91 1125
Sec. of Senate

SENATE
HB 252

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 25, 1991 9:57 am

Mr. Chairman: I move to amend House Bill No. 252 (third reading copy as amended -- blue) as follows:

1. Page 2, line 16.

Following: "CONTRACT"

Insert: ", excluding a contract on an owner-occupied residence,"


Strike: "ARE"

Insert: "is"

ADOPT

REJECT

Signed: _____


Senator Gage

~~JAL~~ 3-25-91
And. Coord.

SB 3-25-91 10:15
Sec. of Senate

SENATE
HB 252

1 HOUSE BILL NO. 252

2 INTRODUCED BY FORRESTER, QUILICI, WILLIAMS,

3 T. BECK, DRISCOLL, SCOTT, LYNCH, DOHERTY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE
6 CONSTRUCTION LIEN LAW; ALLOWING ~~45~~ 30 ~~20~~ 45 DAYS TO GIVE
7 NOTICE OF THE RIGHT TO CLAIM A CONSTRUCTION LIEN TO A
8 REGULATED LENDER PROVIDING FUNDS FOR SERVICES OR MATERIALS;
9 PROVIDING AN EXCEPTION; AMENDING SECTIONS 71-3-531 AND
10 71-3-532, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13 **Section 1.** Section 71-3-531, MCA, is amended to read:

14 *71-3-531. Notice of right to claim a lien required --
15 exceptions. (1) The following are not required to give
16 notice of a right to claim a lien as required by this
17 section:

18 (a) a person who furnishes services or materials
19 directly to the owner at his request;

20 (b) a wage earner or laborer who performs personal
21 labor services for a person furnishing any service or
22 material pursuant to a real estate improvement contract;

23 (c) a person who furnishes services or materials
24 pursuant to a real estate improvement contract that relates
25 to a dwelling for five or more families; and

1 (d) a person who furnishes services or materials
2 pursuant to a real estate improvement contract that relates
3 to an improvement that is partly or wholly commercial in
4 character.

5 (2) A person who may claim a construction lien pursuant
6 to this part shall give notice of his right to claim a lien
7 to the contracting owner in order to claim a lien.

8 (3) This EXCEPT AS PROVIDED IN SUBSECTION (4), THIS
9 notice must be given no later than ~~20~~ 45 ~~30~~ 20 days after
10 the date on which the services or materials are first
11 furnished to the contracting owner. If notice is not given
12 within this period, a lien is enforceable only for the
13 services or materials furnished within the ~~20-day~~ 45-day
14 ~~30-DAY~~ 20-DAY period before the date on which notice is
15 given.

16 (4) WHERE PAYMENT FOR SERVICES OR MATERIALS FURNISHED
17 PURSUANT TO A REAL ESTATE IMPROVEMENT CONTRACT, EXCLUDING A
18 CONTRACT ON AN OWNER-OCCUPIED RESIDENCE, ARE IS MADE BY OR
19 ON BEHALF OF THE CONTRACTING PARTY FROM FUNDS PROVIDED BY A
20 REGULATED LENDER AND SECURED BY AN INTEREST, LIEN, MORTGAGE
21 OR ENCUMBRANCE FOR THE PURPOSE OF PAYING THE PARTICULAR REAL
22 ESTATE IMPROVEMENT BEING LIENED, THE NOTICE REQUIRED BY THIS
23 SECTION MUST BE GIVEN NO LATER THAN 45 DAYS AFTER THE DATE
24 ON WHICH THE SERVICES OR MATERIALS ARE FIRST FURNISHED TO
25 THE CONTRACTING OWNER. IF NOTICE IS NOT GIVEN WITHIN THIS

1 PERIOD, A LIEN IS ENFORCEABLE ONLY FOR THE SERVICES OR
 2 MATERIALS FURNISHED WITHIN THE 45-DAY PERIOD BEFORE THE DATE
 3 ON WHICH NOTICE IS GIVEN.

4 (4)(5) The notice of the right to claim a lien must be
 5 sent to the contracting owner by certified mail or delivered
 6 personally to him. Notice by certified mail is effective on
 7 the date the notice is mailed. IF THE NOTICE IS DELIVERED,
 8 WRITTEN ACKNOWLEDGEMENT OF RECEIPT MUST BE OBTAINED FROM THE
 9 OWNER. A PERSON MAY NOT CLAIM A CONSTRUCTION LIEN UNLESS HE
 10 HAS COMPLIED WITH THIS SUBSECTION.

11 (5)(6) (a) A person who may claim a lien shall also
 12 file with the clerk and recorder of the county in which the
 13 improved real estate is located a copy of the notice of the
 14 right to claim a lien, in the form required by 71-3-532.
 15 This copy must be filed no later than 5 business days after
 16 the date on which the notice of the right to claim a lien is
 17 given to the contracting owner.

18 (b) The notice filed with the clerk and recorder for
 19 the purpose of public notice is effective for 1 year from
 20 the date of filing. Such The notice lapses upon the
 21 expiration of the 1-year period unless the person who may
 22 claim a lien files with the clerk and recorder a 1-year
 23 continuation of the notice prior to the date on which the
 24 notice lapses. The clerk and recorder may remove the notice
 25 from the public record when it lapses.

1 (c) The continuation statement must include:
 2 (i) the clerk and recorder's file number of the notice;
 3 (ii) the date on which the notice originally was filed;
 4 and
 5 (iii) the name of the person to whom the original notice
 6 was given.
 7 (d) If a notice of a right to claim a lien is required
 8 under this section, a person may not claim a construction
 9 lien pursuant to this part unless there is an unexpired
 10 notice of right to claim a construction lien or an unexpired
 11 continuation notice filed with the clerk and recorder at the
 12 time he files his lien.

13 (6)(7) At the request of any subcontractor or material
 14 supplier who may claim a lien through him, a person shall
 15 furnish to the requestor within 5 business days:

16 (a) a description of sufficient to identify the real
 17 estate being improved, ~~sufficient-to-identify-it~~; and

18 (b) the name and address of the contracting owner."

19 **Section 2.** Section 71-3-532, MCA, is amended to read:

20 "71-3-532. Content of notice of right to claim a lien.

21 (1) The notice of the right to claim a lien must be in
 22 writing and state that it is a notice of a right to claim a
 23 lien against real estate for services or materials furnished
 24 in connection with improvement of the real estate.

25 (2) The notice must contain a description sufficient to

1 identify the real estate against which the lien may be
2 claimed.

3 (3) The notice must contain the following information
4 and be in substantially the following form:

5 NOTICE OF THE RIGHT TO CLAIM A LIEN

6 WARNING: READ THIS NOTICE. PROTECT YOURSELF FROM PAYING ANY
7 CONTRACTOR OR SUPPLIER TWICE FOR THE SAME SERVICE.

8 To:..... Date of mailing:

9 (Owner)

10

11 (Owner's address)

12 This is to inform you that has begun to
13 provide (description of services or materials)
14 ordered by for improvements to property you own.

15 The property is located at

16 A lien may be claimed for all services and materials
17 furnished to you, if this notice is given to you within ~~20~~
18 ~~45~~ ~~30~~ ~~20~~ days after the date on which the services or
19 materials described are first furnished to you. If the
20 notice is not given within that time, a lien is enforceable
21 for only the services or materials furnished within the
22 ~~20-day~~ ~~45-day~~ ~~30-DAY~~ 20-DAY period before the date on which
23 the notice is given. HOWEVER, IF A REGULATED LENDER HAS
24 PROVIDED THE FUNDS FOR THE SERVICES OR MATERIALS DESCRIBED
25 IN THIS NOTICE, THE NOTICE MAY BE GIVEN 45 DAYS AFTER THE

1 DATE THE SERVICES OR MATERIALS ARE FIRST FURNISHED TO YOU.
2 IF THE NOTICE IS NOT GIVEN WITHIN THAT TIME, A LIEN IS
3 ENFORCEABLE FOR ONLY THE SERVICES OR MATERIALS FURNISHED
4 WITHIN THE 45-DAY PERIOD BEFORE THE DATE THE NOTICE IS
5 GIVEN.

6 Even if you or your mortgage lender have made full
7 payment to the contractor who ordered these services or
8 materials, your property may still be subject to a lien
9 unless the subcontractor or material supplier providing this
10 notice is paid. THIS IS NOT A LIEN. It is a notice sent to
11 you for your protection in compliance with the construction
12 lien laws of the state of Montana.

13 This notice has been sent to you by:
14 NAME:..... IF YOU HAVE ANY QUESTIONS
15 ADDRESS:..... ABOUT THIS NOTICE, PLEASE
16 TELEPHONE:..... CALL US

17 IMPORTANT INFORMATION ON REVERSE SIDE

18 IMPORTANT INFORMATION FOR YOUR PROTECTION

19 Under Montana's laws, those who work on your property or
20 provide materials and are not paid have a right to enforce
21 their claim for payment against your property. This claim is
22 known as a construction lien.
23

24 If your contractor fails to pay subcontractors or
25 material suppliers or neglects to make other legally

1 required payments, the people who are owed money may look to
2 your property for payment, even if you have paid your
3 contractor in full.

4 The law states that all people hired by a contractor to
5 provide you with services or materials are required to give
6 you a notice of the right to claim a lien to let you know
7 what they have provided.

8 WAYS TO PROTECT YOURSELF ARE:

9 -- RECOGNIZE that this notice of delivery of services or
10 materials may result in a lien against your property unless
11 all those supplying a notice of the right to lien have been
12 paid.

13 -- LEARN more about the construction lien laws and the
14 meaning of this notice by contacting an attorney or the firm
15 sending this notice.

16 -- WHEN PAYING your contractor for services or
17 materials, you may make checks payable jointly to the
18 contractor and the firm furnishing services or materials for
19 which you have received a notice of the right to claim a
20 lien.

21 -- OBTAIN EVIDENCE that all firms from whom you have
22 received a notice of the right to claim a lien have been
23 paid or have waived the right to claim a lien against your
24 property.

25 -- CONSULT an attorney, a professional escrow company,

1 or your mortgage lender."

2 NEW SECTION. **Section 3. Saving clause.** [This act] does
3 not affect rights and duties that matured, penalties that
4 were incurred, or proceedings that were begun before [the
5 effective date of this act].

6 NEW SECTION. **Section 4. Effective date.** [This act] is
7 effective on passage and approval.

-End-

1 House BILL NO. 253
 2 INTRODUCED BY Langford

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE STATUTORY
 5 LANGUAGE THAT GRANTS THE SUPERINTENDENT OF PUBLIC
 6 INSTRUCTION GENERAL SUPERVISION OF THE PUBLIC SCHOOLS AND
 7 DISTRICTS OF THE STATE; AND AMENDING SECTION 20-3-106, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 20-3-106, MCA, is amended to read:

11 "20-3-106. Supervision of schools -- powers and duties.
 12 The superintendent of public instruction ~~has the general~~
 13 ~~supervision of the public schools and districts of the~~
 14 ~~state, and he~~ shall perform the following duties or acts in
 15 implementing and enforcing the provisions of this title:

16 (1) resolve any controversy resulting from the
 17 proration of costs by a joint board of trustees under the
 18 provisions of 20-3-362;

19 (2) issue, renew, or deny teacher certification and
 20 emergency authorizations of employment;

21 (3) negotiate reciprocal tuition agreements with other
 22 states in accordance with the provisions of 20-5-314;

23 (4) serve on the teachers' retirement board in
 24 accordance with the provisions of 2-15-1010;

25 (5) approve or disapprove the orders of a high school

1 boundary commission in accordance with the provisions of
 2 20-6-311;

3 (6) approve or disapprove the opening or reopening of a
 4 school in accordance with the provisions of 20-6-502,
 5 20-6-503, 20-6-504, or 20-6-505;

6 (7) approve or disapprove school isolation within the
 7 limitations prescribed by 20-9-302;

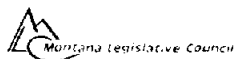
8 (8) generally supervise the school budgeting procedures
 9 prescribed by law in accordance with the provisions of
 10 20-9-102 and prescribe the school budget format in
 11 accordance with the provisions of 20-9-103 and 20-9-506;

12 (9) establish a system of communication for calculating
 13 joint district revenues in accordance with the provisions of
 14 20-9-151;

15 (10) approve or disapprove the adoption of a district's
 16 emergency budget resolution under the conditions prescribed
 17 in 20-9-163 and publish rules for an application for
 18 additional state aid for an emergency budget in accordance
 19 with the approval and disbursement provisions of 20-9-166;

20 (11) generally supervise the school financial
 21 administration provisions as prescribed by 20-9-201(2);

22 (12) prescribe and furnish the annual report forms to
 23 enable the districts to report to the county superintendent
 24 in accordance with the provisions of 20-9-213(5) and the
 25 annual report forms to enable the county superintendents to



1 report to the superintendent of public instruction in
2 accordance with the provisions of 20-3-209;

3 (13) approve, disapprove, or adjust an increase of the
4 average number belonging (ANB) in accordance with the
5 provisions of 20-9-313 and 20-9-314;

6 (14) distribute state equalization aid in support of the
7 foundation program and guaranteed tax base aid, in
8 accordance with the provisions of 20-9-331, 20-9-333,
9 20-9-342, 20-9-346, 20-9-347, and 20-9-366 through 20-9-369;

10 (15) distribute state impact aid in accordance with the
11 provisions of 20-9-304;

12 (16) provide for the uniform and equal provision of
13 transportation by performing the duties prescribed by the
14 provisions of 20-10-112;

15 (17) approve or disapprove an adult education program
16 for which a district proposes to levy a tax in accordance
17 with the provisions of 20-7-705;

18 (18) request, accept, deposit, and expend federal money
19 in accordance with the provisions of 20-9-603;

20 (19) authorize the use of federal money for the support
21 of an interlocal cooperative agreement in accordance with
22 the provisions of 20-9-703 and 20-9-704;

23 (20) prescribe the form and contents of and approve or
24 disapprove interstate contracts in accordance with the
25 provisions of 20-9-705;

1 (21) approve or disapprove the conduct of school on a
2 Saturday or on pupil-instruction-related days in accordance
3 with the provisions of 20-1-303 and 20-1-304;

4 (22) recommend standards of accreditation for all
5 schools to the board of public education and evaluate
6 compliance with the standards and recommend accreditation
7 status of every school to the board of public education in
8 accordance with the provisions of 20-7-101 and 20-7-102;

9 (23) collect and maintain a file of curriculum guides
10 and assist schools with instructional programs in accordance
11 with the provisions of 20-7-113 and 20-7-114;

12 (24) establish and maintain a library of visual, aural,
13 and other educational media in accordance with the
14 provisions of 20-7-201;

15 (25) license textbook dealers and initiate prosecution
16 of textbook dealers violating the law in accordance with the
17 provisions of the textbooks part of this title;

18 (26) as the governing agent and executive officer of the
19 state of Montana for K-12 vocational education, adopt the
20 policies prescribed by and in accordance with the provisions
21 of 20-7-301;

22 (27) supervise and coordinate the conduct of special
23 education in the state in accordance with the provisions of
24 20-7-403;

25 (28) administer the traffic education program in

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1 accordance with the provisions of 20-7-502;
2 (29) administer the school food services program in
3 accordance with the provisions of 20-10-201, 20-10-202, and
4 20-10-203;
5 (30) review school building plans and specifications in
6 accordance with the provisions of 20-6-622;
7 (31) prescribe the method of identification and signals
8 to be used by school safety patrols in accordance with the
9 provisions of 20-1-408;
10 (32) provide schools with information and technical
11 assistance for compliance with the student assessment rules
12 provided for in 20-2-121 and collect and summarize the
13 results of the student assessment for the board of public
14 education and the legislature;
15 (33) administer the distribution of guaranteed tax base
16 aid for county retirement levy obligations in accordance
17 with 20-9-366 through 20-9-369; and
18 (34) perform any other duty prescribed from time to time
19 by this title, any other act of the legislature, or the
20 policies of the board of public education."

-End-