

SENATE BILL NO. 64
INTRODUCED BY HALLIGAN

IN THE SENATE

JANUARY 4, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 12, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 13, 1989	PRINTING REPORT.
JANUARY 14, 1989	SECOND READING, DO PASS.
JANUARY 16, 1989	ENGROSSING REPORT.
JANUARY 17, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
FEBRUARY 20, 1989	FIRST READING.
MARCH 3, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 6, 1989	SECOND READING, CONCURRED IN.
MARCH 7, 1989	THIRD READING, CONCURRED IN. AYES, 81; NOES, 11.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 11, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 14, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *64*
2 INTRODUCED BY *Hellyer*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE
5 NOTICE OF A RIGHT TO CLAIM A CONSTRUCTION LIEN FILED WITH
6 THE CLERK AND RECORDER FOR THE PURPOSE OF PUBLIC NOTICE
7 LAPSES AFTER 1 YEAR UNLESS A CONTINUATION OF THE NOTICE IS
8 FILED; AND AMENDING SECTION 71-3-531, MCA."

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
4 pursuant to this part shall give notice of his right to
5 claim a lien to the contracting owner in order to claim a
6 lien.

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

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

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

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

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

7 (c) 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) 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 the real estate being improved,
17 sufficient to identify it; and

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

19 **Section 2. Transition provision.** Notwithstanding
20 [section 1], notice of a right to claim a lien that is filed
21 with the clerk and recorder before October 1, 1989, lapses
22 unless a continuation of the notice is filed before April 1,
23 1990.

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

SENATE BILL NO. 64
INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE
NOTICE OF A RIGHT TO CLAIM A CONSTRUCTION LIEN FILED WITH
THE CLERK AND RECORDER FOR THE PURPOSE OF PUBLIC NOTICE
LAPSES AFTER 1 YEAR UNLESS A CONTINUATION OF THE NOTICE IS
FILED; AND AMENDING SECTION 71-3-531, MCA."

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 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 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

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

7 (C) THE CONTINUATION STATEMENT MUST INCLUDE:

8 (I) THE CLERK AND RECORDER'S FILE NUMBER OF THE
 9 NOTICE; AND

10 (II) THE DATE ON WHICH THE NOTICE ORIGINALLY WAS FILED.

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

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

20 (a) a description of the real estate being improved,
 21 sufficient to identify it; and

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

23 NEW SECTION. Section 2. Transition provision.
 24 Notwithstanding [section 1], notice of a right to claim a
 25 lien that is filed with the clerk and recorder before

1 October 1, 1989, lapses unless a continuation of the notice
 2 is filed before April 1, 1990.

-End-

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(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 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 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

1 the date of filing. Such notice lapses upon the expiration
 2 of the 1-year period unless the person who may claim a lien
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 18 supplier who may claim a lien through him, a person shall
 19 furnish to the requestor within 5 business days:

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23 NEW SECTION. Section 2. Transition provision.

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 4 the notice prior to the date on which the notice lapses. The
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 6 the public record when it lapses.

7 (C) THE CONTINUATION STATEMENT MUST INCLUDE:

8 (I) THE CLERK AND RECORDER'S FILE NUMBER OF THE
 9 NOTICE; AND

10 (II) THE DATE ON WHICH THE NOTICE ORIGINALLY WAS
 11 FILED; AND

12 (III) THE NAME OF THE PERSON TO WHOM THE ORIGINAL
 13 NOTICE WAS GIVEN.

14 {c}{D} If a notice of a right to claim a lien is
 15 required under this section, a person may not claim a
 16 construction lien pursuant to this part unless there is an
 17 unexpired notice of right to claim a construction lien or an
 18 unexpired continuation notice filed with the clerk and
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