

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0260.01 Kristen Forrestal

HOUSE BILL 11-1020

HOUSE SPONSORSHIP

Balmer,

SENATE SPONSORSHIP

(None),

House Committees

Economic and Business Development

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE REQUIREMENT THAT A SUBCONTRACTOR PROVIDE
102 NOTICE OF WORK PROVIDED ON A JOB SITE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billssummaries>.)

The bill requires a person providing goods or services to a job site to provide notice to the owner, or reputed owner, or to the superintendent of construction, agent, architect, or financing institution or other person disbursing construction funds, within 20 days after the person first furnishes goods or services to the job site as a prerequisite to the validity

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

of a mechanic's lien claim. A principal contractor and any subcontractor must include in any subcontract with another person to furnish goods or services to the job site a notice of the requirement to provide the notice as a prerequisite to the validity of a mechanic's lien claim.

In addition, the bill requires the principal contractor or the person who contracted with the principal contractor to require lien waivers from the noticing party for the goods or services provided by the party and to issue joint checks to the noticing party and the party with whom he or she contracted.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 38-22-102 (4) and (6), Colorado Revised Statutes,
3 are amended to read:

4 **38-22-102. Payments - effect.** (4) (a) Any of the persons
5 mentioned in section 38-22-101, except a principal contractor, ~~at any time~~
6 ~~may~~ SHALL, AS A NECESSARY PREREQUISITE TO THE VALIDITY OF A
7 MECHANIC'S LIEN CLAIM FOR ALL OF THE GOODS AND SERVICES PROVIDED
8 TO A JOB SITE, give to the owner, or reputed owner, or to the
9 superintendent of construction, agent, architect, or to the financing
10 institution or other person disbursing construction funds, WITHIN TWENTY
11 DAYS AFTER THE PERSON FIRST FURNISHES GOODS OR SERVICES TO THE JOB
12 SITE, a written notice that they have performed labor or furnished laborers
13 or materials to or for a principal contractor, or any person acting by
14 authority of the owner or reputed owner, or that they have agreed to and
15 will do so, stating in general terms the kind of labor, laborers, or materials
16 and the name of the person to or for whom the same was or is to be done,
17 or performed, or both, and the estimated or agreed amount in value, as
18 near as may be, of that already done or furnished, or both, and also of the
19 whole agreed to be done or furnished, or both. IF THE NOTICE IS
20 PROVIDED ANY TIME LATER THAN TWENTY DAYS AFTER THE PERSON FIRST

1 FURNISHES GOODS OR SERVICES TO A JOB SITE, A MECHANIC'S LIEN CLAIM
2 IS ONLY VALID BEGINNING TWENTY DAYS BEFORE THE DATE THE NOTICE
3 WAS PROVIDED.

4 (b) IN ORDER TO PRESERVE THE RIGHT TO A MECHANIC'S LIEN
5 CLAIM, A PRINCIPAL CONTRACTOR AND ANY SUBSEQUENT
6 SUBCONTRACTOR SHALL INCLUDE IN ANY SUBCONTRACT WITH ANOTHER
7 PERSON TO FURNISH GOODS OR SERVICES TO THE JOB SITE A NOTICE OF THE
8 REQUIREMENT TO PROVIDE THE NOTICE REQUIRED IN PARAGRAPH (a) OF
9 THIS SUBSECTION (4), AS A PREREQUISITE TO THE VALIDITY OF A
10 MECHANIC'S LIEN CLAIM.

11 (6) Upon such notice being given, it is the duty of the PRINCIPAL
12 CONTRACTOR OR THE person who contracted with the principal contractor
13 TO REQUIRE LIEN WAIVERS FROM THE NOTICING PARTY FOR THE GOODS OR
14 SERVICES PROVIDED BY THE PARTY; TO ISSUE JOINT CHECKS TO THE
15 NOTICING PARTY AND THE PARTY WITH WHOM HE OR SHE CONTRACTED
16 WITH; OR to withhold from such principal contractor, or from any other
17 person acting under such owner or reputed owner, and to whom, by said
18 notice, the said labor, laborers, or materials, have been furnished or
19 agreed to be furnished, sufficient money due or that may become due to
20 said principal contractor, or other persons, to satisfy such claim and any
21 lien that may be filed therefor for record under this article, including
22 reasonable costs provided for in this article.

23 **SECTION 2. Act subject to petition - effective date.** This act
24 shall take effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part shall not take effect
3 unless approved by the people at the general election to be held in
4 November 2012 and shall take effect on the date of the official
5 declaration of the vote thereon by the governor.