

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0260.01 Kristen Forrestal

HOUSE BILL 11-1020

HOUSE SPONSORSHIP

Balmer,

SENATE SPONSORSHIP

(None),

House Committees

Economic and Business Development
Legislative Council

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/billsummaries>.)

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.** Article 22 of title 38, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **38-22-102.5. Legislative declaration - creation of committee to**
5 **study notice requirements at construction sites - duties of committee**

6 **- repeal.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

7 (I) CURRENT LAW ALLOWS, BUT DOES NOT REQUIRE, A PERSON
8 WHO PERFORMS LABOR OR FURNISHES LABORERS, MATERIALS, OR OTHER
9 SERVICES TO GIVE NOTICE TO THE OWNER, REPUTED OWNER,
10 SUPERINTENDENT OF CONSTRUCTION, AGENT, OR ARCHITECT RESPONSIBLE
11 FOR A CONSTRUCTION PROJECT, OR TO THE FINANCING INSTITUTION OR
12 OTHER PERSON DISBURSING CONSTRUCTION FUNDS, A WRITTEN NOTICE
13 THAT THE PERSON HAS PERFORMED LABOR OR FURNISHED LABORERS OR
14 MATERIALS;

15 (II) CURRENTLY THERE ARE SUBCONTRACTORS WHO PERFORM
16 LABOR OR FURNISH LABORERS, MATERIALS, OR OTHER SERVICES WITHOUT
17 THE KNOWLEDGE OF THE PRINCIPAL CONTRACTOR OR OWNER OF THE
18 PROPERTY WHERE THE WORK IS BEING PERFORMED OR THE SERVICES ARE
19 PROVIDED;

20 (III) CURRENT LAW RESULTS IN SOME SUBCONTRACTORS NOT

1 GETTING PAID FOR WORK PERFORMED OR SERVICES PROVIDED AND THEY
2 ARE FORCED TO FILE LIENS FOR NONPAYMENT; AND

3 (IV) CURRENT LAW ALSO RESULTS IN OWNERS AND PRINCIPAL
4 CONTRACTORS PAYING TWICE FOR LABOR AND SERVICES AND, IN SOME
5 CASES, REQUIRES THEM TO GO THROUGH THE PROCESS OF HAVING LIENS
6 REMOVED FROM THEIR TITLE.

7 (b) THEREFORE, THE GENERAL ASSEMBLY CONCLUDES THAT IN
8 ORDER TO SOLVE THE PROBLEMS CREATED BY THE LACK OF NOTICE AT
9 CONSTRUCTION SITES, IT IS NECESSARY TO CREATE A COMMITTEE TO
10 STUDY THE ISSUES AND SUGGEST LEGISLATIVE OR OTHER SOLUTIONS TO
11 THE GENERAL ASSEMBLY.

12 (2) (a) THERE IS HEREBY CREATED THE COLORADO CONSTRUCTION
13 NOTICE AND LIEN REVIEW COMMITTEE, REFERRED TO IN THIS SECTION AS
14 THE "COMMITTEE", TO CONSIDER AND MAKE RECOMMENDATIONS TO THE
15 GENERAL ASSEMBLY CONCERNING THE ISSUES OUTLINED IN SUBSECTION
16 (1) OF THIS SECTION. THE COMMITTEE MEMBERS WILL BE APPOINTED AS
17 FOLLOWS:

18 (I) TWO MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE;

19 (II) TWO MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
20 REPRESENTATIVES;

21 (III) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE
22 SENATE;

23 (IV) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE
24 HOUSE OF REPRESENTATIVES; AND

25 (V) THREE MEMBERS APPOINTED BY THE GOVERNOR.

26 (b) THE PERSONS MAKING THE APPOINTMENTS SHALL ENSURE THAT
27 REPRESENTATIVES FROM THE FOLLOWING INDUSTRIES AND OCCUPATIONS

1 ARE APPOINTED TO THE COMMITTEE:

2 (I) GENERAL CONTRACTORS;

3 (II) SUBCONTRACTORS;

4 (III) TITLE COMPANIES;

5 (IV) THE CONSTRUCTION EQUIPMENT INDUSTRY;

6 (V) COMMERCIAL DEVELOPERS;

7 (VI) HOMEBUILDERS;

8 (VII) PERSONS FAMILIAR WITH THE COLORADO LIEN LAWS; AND

9 (VIII) MATERIAL SUPPLIERS.

10 (c) THE APPOINTING AUTHORITIES SHALL APPOINT THE MEMBERS

11 OF THE COMMITTEE AS SOON AS POSSIBLE AFTER THE EFFECTIVE DATE OF

12 THIS SECTION, BUT NO LATER THAN JULY 1, 2011.

13 (d) COMMITTEE MEMBERS SHALL ELECT A CHAIR TO THE

14 COMMITTEE AT THE FIRST MEETING OF THE COMMITTEE. COMMITTEE

15 MEMBERS SHALL SERVE WITHOUT COMPENSATION. THE LEGISLATIVE

16 COUNCIL STAFF AND OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL NOT

17 PROVIDE STAFF SUPPORT TO ASSIST IN THE ACTIVITIES OF THE COMMITTEE.

18 (3) THE COMMITTEE SHALL STUDY AND MAKE RECOMMENDATIONS

19 ON, BUT NEED NOT LIMIT ITS CONSIDERATION TO, THE FOLLOWING:

20 (a) A TIMELY AND AFFORDABLE PROCESS TO IDENTIFY ALL

21 SUBCONTRACTORS PROVIDING LABOR, MATERIALS, AND SERVICES AT A

22 JOBSITE;

23 (b) A WAY TO ENSURE THAT ALL SUBCONTRACTORS ARE PAID FOR

24 LABOR, MATERIALS, AND SERVICES PROVIDED AT A JOBSITE;

25 (c) A PROCESS TO ELIMINATE DOUBLE PAYMENTS BY PRINCIPAL

26 CONTRACTORS AND OWNERS FOR LABOR, MATERIALS, AND SERVICES

27 PROVIDED; AND

1 (d) THE CONSTRUCTION REGULATIONS AND ASSOCIATED LIEN
2 LAWS IN THE STATE OF UTAH AND THEIR RELEVANCE TO THE ISSUES IN
3 COLORADO.

4 (4) THE COMMITTEE SHALL MEET AT THE STATE CAPITOL BUILDING
5 DURING THE INTERIM AFTER THE CONCLUSION OF THE FIRST REGULAR
6 SESSION OF THE SIXTY-EIGHTH GENERAL ASSEMBLY. THE COMMITTEE
7 SHALL MEET AT LEAST SIX TIMES, WITH THE FIRST MEETING OCCURRING NO
8 LATER THAN AUGUST 1, 2011, COMMITTEE MEETINGS SHALL BE OPEN TO
9 THE PUBLIC, AND THE COMMITTEE SHALL SOLICIT THE TESTIMONY OF
10 MEMBERS OF THE PUBLIC. THE COMMITTEE SHALL FOLLOW THE NOTICE
11 REQUIREMENTS FOR MEETINGS THAT A STATE PUBLIC BODY IS REQUIRED
12 TO FOLLOW PURSUANT TO SECTION 24-6-402 (2) (c), C.R.S. THE
13 COMMITTEE SHALL CONTACT THE LEGISLATIVE COUNCIL STAFF REGARDING
14 THE TIME, PLACE, AND AGENDA FOR EACH MEETING AND THE LEGISLATIVE
15 COUNCIL STAFF SHALL POST THE INFORMATION ON ITS WEB SITE.

16 (5) THE COMMITTEE SHALL REPORT ITS FINDINGS AND ANY
17 RECOMMENDED LEGISLATION IN WRITING TO THE BUSINESS, LABOR, AND
18 TECHNOLOGY COMMITTEE OF THE SENATE AND THE ECONOMIC AND
19 BUSINESS DEVELOPMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES
20 PRIOR TO THE COMMENCEMENT OF THE SECOND REGULAR SESSION OF THE
21 SIXTY-EIGHTH GENERAL ASSEMBLY.

22 (6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2012.

23 **SECTION 2. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.