

## Senate Substitute for HOUSE BILL No. 2212

By Committee on Judiciary

3-22

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AN ACT concerning civil procedure; relating to liens; filing time; amending K.S.A. 60-1102 and 60-1103, as amended by section 7 of chapter 175 of the 2000 Session Laws of Kansas, and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 60-1102 is hereby amended to read as follows: 60-1102. (a) *Filing.* Any person claiming a lien on real property, under the provisions of K.S.A. 60-1101, and amendments thereto, shall file with the clerk of the district court of the county in which property is located, within ~~four months~~ *120 days when such property is residential property, and within 180 days when such property is other than residential property,* after the date material, equipment or supplies, used or consumed was last furnished or last labor performed under the contract a verified statement showing:

- (1) The name of the owner,
- (2) the name and address sufficient for service of process of the claimant,
- (3) a description of the real property,
- (4) a reasonably itemized statement and the amount of the claim, but if the amount of the claim is evidenced by a written instrument, or if a promissory note has been given for the same, a copy thereof may be attached to the claim in lieu of the itemized statement.

(b) *Recording.* Immediately upon the receipt of such statement the clerk of the court shall index the lien in the general index by party names and file number.

Sec. 2. K.S.A. 60-1103, as amended by section 7 of chapter 175 of the 2000 Session Laws of Kansas, is hereby amended to read as follows: 60-1103. (a) *Procedure.* Any supplier, subcontractor or other person furnishing labor, equipment, material or supplies, used or consumed at the site of the property subject to the lien, under an agreement with the contractor, subcontractor or owner contractor may obtain a lien for the amount due in the same manner and to the same extent as the original contractor except that:

- (1) The lien statement must state the name of the contractor and be

1 filed within ~~three months~~ *90 days when such property is residential prop-*  
2 *erty, and within 180 days when such property is other than residential*  
3 *property*, after the date supplies, material or equipment was last furnished  
4 or labor performed by the claimant;

5 (2) if a warning statement is required to be given pursuant to K.S.A.  
6 60-1103a, and amendments thereto, there shall be attached to the lien  
7 statement the affidavit of the supplier or subcontractor that such warning  
8 statement was properly given; and

9 (3) a notice of intent to perform, if required pursuant to K.S.A. 60-  
10 1103b, and amendments thereto, must have been filed as provided by  
11 that section.

12 (b) Owner contractor is defined as any person, firm or corporation  
13 who:

14 (1) Is the fee title owner of the real estate subject to the lien; and

15 (2) enters into contracts with more than one person, firm or corpo-  
16 ration for labor, equipment, material or supplies used or consumed for  
17 the improvement of such real property.

18 (c) *Recording and notice.* When a lien is filed pursuant to this section,  
19 the clerk of the district court shall enter the filing in the general index.  
20 The claimant shall (1) cause a copy of the lien statement to be served  
21 personally upon any one owner, any holder of a recorded equitable in-  
22 terest and any party obligated to pay the lien in the manner provided by  
23 K.S.A. 60-304, and amendments thereto, for the service of summons  
24 within the state, or by K.S.A. 60-308, and amendments thereto, for service  
25 outside of the state, (2) mail a copy of the lien statement to any one owner  
26 of the property, any holder of a recorded equitable interest and to any  
27 party obligated to pay the same by restricted mail or (3) if the address of  
28 any one owner or such party is unknown and cannot be ascertained with  
29 reasonable diligence, post a copy of the lien statement in a conspicuous  
30 place on the premises. The provisions of this subsection requiring that  
31 the claimant serve a copy of the lien statement shall be deemed to have  
32 been complied with, if it is proven that the person to be served actually  
33 received a copy of the lien statement. No action to foreclose any lien may  
34 proceed or be entered against residential real property in this state unless  
35 the holder of a recorded equitable interest was served with notice in  
36 accordance with the provisions of this subsection.

37 (d) *Rights and liability of owner.* The owner of the real property shall  
38 not become liable for a greater amount than the owner has contracted to  
39 pay the original contractor, except for any payments to the contractor  
40 made:

41 (1) Prior to the expiration of the ~~three-month~~ *time* period for filing  
42 lien claims *as provided in subsection (a)(1)*, if no warning statement is  
43 required by K.S.A. 60-1103a, and amendments thereto; or

1 (2) subsequent to the date the owner received the warning statement,  
2 if a warning statement is required by K.S.A. 60-1103a, and amendments  
3 thereto.

4 The owner may discharge any lien filed under this section which the  
5 contractor fails to discharge and credit such payment against the amount  
6 due the contractor.

7 Sec. 3. K.S.A. 60-1102 and 60-1103, as amended by section 7 of  
8 chapter 175 of the 2000 Session Laws of Kansas, are hereby repealed.

9 Sec. 4. This act shall take effect and be in force from and after its  
10 publication in the statute book.

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