

SENATE BILL No. 603

By Committee on Commerce

2-12

9 AN ACT concerning liens; relating to supplier's liens; amending K.S.A.
10 60-1111 and repealing the existing section.

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

13 New Section 1. (a) As used in this section:

14 (1) "Commercial property" means a new structure or pre-existing
15 structure which is not constructed for use or used as a single or double
16 family residence.

17 (2) "Original contractor" means any contractor who has a direct con-
18 tractual relationship with the owner.

19 (3) "Subcontractor" means any person who furnishes labor, equip-
20 ment, materials or supplies pursuant to a contract directly with an original
21 contractor.

22 (4) "Supplier" means any person who furnishes labor, equipment,
23 materials or supplies pursuant to a contract directly with a subcontractor.
24 For the purposes of this section anyone who has a contract with a sub-
25 contractor is considered a supplier.

26 (5) "Preliminary 20-day notice" means one or more written notices
27 from a claimant that are given prior to the recording of a mechanic's lien
28 and which are required to be given pursuant to this section.

29 (b) A lien for the furnishing of labor, equipment, materials or supplies
30 in an amount in excess of \$15,000 by a supplier for the construction of
31 or improvement to commercial property pursuant to K.S.A. 60-1103, and
32 amendments thereto, may only be claimed if the supplier has, no more
33 than 20 days after furnishing such labor, equipment, materials or supplies,
34 served on the original contractor and the subcontractor with whom the
35 supplier has contracted for the furnishing of labor, equipment, materials
36 or supplies, a preliminary 20-day notice providing the information re-
37 quired by subsection (c). The preliminary 20-day notice shall be served
38 by sending the notice or a copy of the notice by certified mail.

39 (c) The preliminary 20-day notice shall be in substantially the follow-
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KANSAS LIEN PROTECTION NOTICE

**This is not a lien and is not a reflection on the integrity
of any contractor or subcontractor**

The name and address of the original contractor are: _____

The name and address of the subcontractor with whom the supplier has contracted are:

This preliminary lien notice has been completed by: (name of subcontractor) _____

Date: _____

By: _____

Address: _____

Telephone number: _____

You are hereby notified that the claimant has furnished or will furnish labor, equipment,
materials, or supplies of the following general description: _____

In the construction, alteration or repair of the building, structure or improvement located
at: (Insert the address, legal description or other description sufficient to identify the prop-
erty) _____

And situated in _____ County, Kansas.

(d) If a supplier who is required to give a preliminary 20-day notice
does not do so within 20 days of first furnishing labor, equipment, ma-
terials or supplies for a project, such supplier may still give the notice
later, but will retain the right to claim a lien in excess of \$15,000 only for
that portion of the labor, equipment, materials or supplies furnished
within the 20 days prior to the notice being served and at any time there-
after.

(e) A supplier required to give a preliminary 20-day notice in order
to claim a lien pursuant to K.S.A. 60-1103, and amendments thereto, need
only give notice once.

(f) Nothing in this section shall expand or create any additional rights
of a person to claim a lien pursuant to K.S.A. 60-1101 or 60-1103, and
amendments thereto, or to file a claim under a bond furnished pursuant
to K.S.A. 60-1111, and amendments thereto.

Sec. 2. K.S.A. 60-1111 is hereby amended to read as follows: 60-
1111. (a) *Bond by contractor.* Except as provided in this section, when-
ever any public official, under the laws of the state, enters into contract
in any sum exceeding \$100,000 with any person or persons for the pur-
pose of making any public improvements, or constructing any public
building or making repairs on the same, such officer shall take, from the
party contracted with, a bond to the state of Kansas with good and suf-
ficient sureties in a sum not less than the sum total in the contract, con-
ditioned that such contractor or the subcontractor of such contractor shall
pay all indebtedness incurred for labor furnished, materials, equipment

1 or supplies, used or consumed in connection with or in or about the
2 construction of such public building or in making such public improve-
3 ments.

4 A contract which requires a contractor or subcontractor to obtain a
5 payment bond or any other bond shall not require that such bond be
6 obtained from a specific surety, agent, broker or producer. A public of-
7 ficial entering into a contract which requires a contractor or subcontractor
8 to obtain a payment bond or any other bond shall not require that such
9 bond be obtained from a specific surety, agent, broker or producer.

10 (b) *Filing and limitations.* The bond required under subsection (a)
11 shall be filed with the clerk of the district court of the county in which
12 such public improvement is to be made. When such bond is filed, no lien
13 shall attach under this article. Any liens which have been filed prior to
14 the filing of such bond shall be discharged. Any person to whom there is
15 due any sum for labor or material furnished, as stated in subsection (a),
16 or such person's assigns, may bring an action on such bond for the re-
17 covery of such indebtedness but no action shall be brought on such bond
18 after six months from the completion of such public improvements or
19 public buildings.

20 (c) In any case of a contract for construction, repairs or improvements
21 for the state or a state agency under K.S.A. 75-3739 or 75-3741, and
22 amendments thereto, a certificate of deposit payable to the state may be
23 accepted in accordance with and subject to K.S.A. 60-1112, and amend-
24 ments thereto. When such certificate of deposit is so accepted, no lien
25 shall attach under this article. Any liens which have been filed prior to
26 the acceptance of such certificate of deposit shall be discharged. Any
27 person to whom there is due any sum for labor furnished, materials,
28 equipment or supplies used or consumed in connection with or for such
29 contract for construction, repairs or improvements shall make a claim
30 therefor with the director of purchases under K.S.A. 60-1112, and amend-
31 ments thereto.

32 (d) *No supplier may file a claim in excess of \$15,000 under a public*
33 *works bond provided pursuant to this section, unless such supplier has*
34 *served a preliminary 20-day notice pursuant to section 1, and amend-*
35 *ments thereto, on the original contractor required to obtain the bond*
36 *under this section. Service of the preliminary 20-day notice shall be made*
37 *by certified mail.*

38 Sec. 3. K.S.A. 60-1111 is hereby repealed.

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

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