

---

**SUBSTITUTE SENATE BILL 6036**

---

**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Labor, Commerce, Research & Development  
(originally sponsored by Senators Fraser, Franklin, Weinstein, Kohl-  
Welles and Hargrove)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to construction liens; amending RCW 60.04.031,  
2 60.04.091, and 18.27.010; and adding new sections to chapter 60.04 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 60.04.031 and 1992 c 126 s 2 are each amended to read  
5 as follows:

6 (1) Except as otherwise provided in this section, every person  
7 furnishing professional services, materials, or equipment for the  
8 improvement of real property shall give the owner or reputed owner  
9 notice in writing of the right to claim a lien. If the prime  
10 contractor is in compliance with the requirements of RCW 19.27.095,  
11 60.04.230, and 60.04.261, this notice shall also be given to the prime  
12 contractor as described in this subsection unless the potential lien  
13 claimant has contracted directly with the prime contractor. The notice  
14 may be given at any time but only protects the right to claim a lien  
15 for professional services, materials, or equipment supplied after the  
16 date which is sixty days before:

17 (a) Mailing the notice by certified or registered mail to the owner  
18 or reputed owner; or

1 (b) Delivering or serving the notice personally upon the owner or  
2 reputed owner and obtaining evidence of delivery in the form of a  
3 receipt or other acknowledgement signed by the owner or reputed owner  
4 or an affidavit of service.

5 In the case of new construction of a single-family residence, the  
6 notice of a right to claim a lien (~~((may))~~) shall be given at (~~((any time~~  
7 ~~but only protects the right to claim a lien for professional services,~~  
8 ~~materials, or equipment supplied after a date which is ten days before~~  
9 ~~the notice is given as described in this subsection))~~) the time of  
10 service.

11 (2) Notices of a right to claim a lien shall not be required of(~~(+~~

12 ~~(a) Persons who contract directly with the owner or the owner's~~  
13 ~~common law agent;~~

14 ~~(b))~~) laborers whose claim of lien is based solely on performing  
15 labor(~~(+ or~~

16 ~~(c) Subcontractors who contract for the improvement of real~~  
17 ~~property directly with the prime contractor, except as provided in~~  
18 ~~subsection (3)(b) of this section)).~~

19 (3) Persons who furnish professional services, materials, or  
20 equipment in connection with new construction of a residence or the  
21 repair, alteration, or remodel of an existing owner-occupied single-  
22 family residence or appurtenant garage:

23 (a) Who contract directly with the owner-occupier or their common  
24 law agent shall not be required to send a written notice of the right  
25 to claim a lien and shall have a lien for the full amount due under  
26 their contract, as provided in RCW 60.04.021; or

27 (b) Who do not contract directly with the owner-occupier or their  
28 common law agent shall give notice of the right to claim a lien to the  
29 owner-occupier. Liens of persons furnishing professional services,  
30 materials, or equipment who do not contract directly with the owner-  
31 occupier or their common law agent may only be satisfied from amounts  
32 not yet paid to the prime contractor by the owner at the time the  
33 notice described in this section is received, regardless of whether  
34 amounts not yet paid to the prime contractor are due. For the purposes  
35 of this subsection "received" means actual receipt of notice by  
36 personal service, or registered or certified mail, or three days after  
37 mailing by registered or certified mail, excluding Saturdays, Sundays,  
38 or legal holidays.

1 (4) The notice of right to claim a lien described in subsection (1)  
2 of this section, shall include but not be limited to the following  
3 information and shall substantially be in the following form, using  
4 lower-case and upper-case ten-point type where appropriate.

5 NOTICE TO OWNER

6 IMPORTANT: READ BOTH SIDES OF THIS NOTICE  
7 CAREFULLY.

8 PROTECT YOURSELF FROM PAYING TWICE

9 To: ..... Date: .....

10 Re: (description of property: Street address or general location.)

11 From: . . . . .

12 AT THE REQUEST OF: (Name of person ordering the professional  
13 services, materials, or equipment)

14 THIS IS NOT A LIEN: This notice is sent to you to tell you who is  
15 providing professional services, materials, or equipment for the  
16 improvement of your property and to advise you of the rights of these  
17 persons and your responsibilities. Also take note that laborers on  
18 your project may claim a lien without sending you a notice.

19 OWNER/OCCUPIER OF EXISTING  
20 RESIDENTIAL PROPERTY

21 Under Washington law, those who furnish labor, professional services,  
22 materials, or equipment for the repair, remodel, or alteration of your  
23 owner-occupied principal residence and who are not paid, have a right  
24 to enforce their claim for payment against your property. This claim  
25 is known as a construction lien.

26 The law limits the amount that a lien claimant can claim against your  
27 property. Claims may only be made against that portion of the contract  
28 price you have not yet paid to your prime contractor as of the time  
29 this notice was given to you or three days after this notice was mailed  
30 to you. Review the back of this notice for more information and ways  
31 to avoid lien claims.

32 COMMERCIAL AND/OR NEW  
33 RESIDENTIAL PROPERTY

34 We have or will be providing professional services, materials, or

1 equipment for the improvement of your commercial or new residential  
2 project. In the event you or your contractor fail to pay us, we may  
3 file a lien against your property. A lien may be claimed for all  
4 professional services, materials, or equipment furnished after a date  
5 that is sixty days before this notice was given to you or mailed to  
6 you, unless the improvement to your property is the construction of a  
7 new single-family residence, then ten days before this notice was given  
8 to you or mailed to you.

9 Sender: . . . . .  
10 Address: . . . . .  
11 Telephone: . . . . .

12 Brief description of professional services, materials, or equipment  
13 provided or to be provided: . . . . .

14 IMPORTANT INFORMATION  
15 ON REVERSE SIDE

16 IMPORTANT INFORMATION  
17 FOR YOUR PROTECTION

18 This notice is sent to inform you that we have or will provide  
19 professional services, materials, or equipment for the improvement of  
20 your property. We expect to be paid by the person who ordered our  
21 services, but if we are not paid, we have the right to enforce our  
22 claim by filing a construction lien against your property.

23 LEARN more about the lien laws and the meaning of this notice by  
24 discussing them with your contractor, suppliers, Department of Labor  
25 and Industries, the firm sending you this notice, your lender, or your  
26 attorney.

27 COMMON METHODS TO AVOID CONSTRUCTION LIENS: There are several methods  
28 available to protect your property from construction liens. The  
29 following are two of the more commonly used methods.

30 DUAL PAYCHECKS (Joint Checks): When paying your contractor for  
31 services or materials, you may make checks payable jointly to  
32 the contractor and the firms furnishing you this notice.

33 LIEN RELEASES: (~~You may require~~) Your contractor is required  
34 to provide you with lien releases signed by all the suppliers  
35 and subcontractors from whom you have received this notice. If



1 the professional services being provided. The notice described in this  
2 subsection shall be substantially in the following form:

3 NOTICE OF FURNISHING  
4 PROFESSIONAL SERVICES

5 That on the \_\_\_\_ (day) \_\_\_\_ day of \_\_\_\_ (month and year) \_\_\_\_, \_\_\_\_ (name of  
6 provider) \_\_\_\_ began providing professional services upon or for the  
7 improvement of real property legally described as follows:

8 [Legal Description  
9 is mandatory]

10 The general nature of the professional services provided is . . .  
11 The owner or reputed owner of the real property is . . . . .  
12 . . . . .

13 .....

14 (Signature)

15 .....

16 (Name of Claimant)

17 .....

18 (Street Address)

19 .....

20 (City, State, Zip Code)

21 .....

22 (Phone Number)

23 ((+6)) (9) A lien authorized by this chapter shall not be enforced  
24 unless the lien claimant has complied with the applicable provisions of  
25 this section.

26 **Sec. 2.** RCW 60.04.091 and 1992 c 126 s 7 are each amended to read  
27 as follows:

28 Every person claiming a lien under RCW 60.04.021 shall file for  
29 recording, in the county where the subject property is located, a  
30 notice of claim of lien not later than ninety days after the person has  
31 ceased to furnish labor, professional services, materials, or equipment  
32 or the last date on which employee benefit contributions were due. The  
33 notice of claim of lien:

- 1 (1) Shall state in substance and effect:
- 2 (a) The name, phone number, and address of the claimant;
- 3 (b) The first and last date on which the labor, professional
- 4 services, materials, or equipment was furnished or employee benefit
- 5 contributions were due;
- 6 (c) The name of the person indebted to the claimant;
- 7 (d) The street address, legal description, or other description
- 8 reasonably calculated to identify, for a person familiar with the area,
- 9 the location of the real property to be charged with the lien;
- 10 (e) The name of the owner or reputed owner of the property, if
- 11 known, and, if not known, that fact shall be stated; and
- 12 (f) The principal amount for which the lien is claimed. The
- 13 principal amount of the lien shall not include any interest, late fees,
- 14 costs, attorneys' fees, or similar charges.

15 (2) Shall be signed by the claimant or some person authorized to

16 act on his or her behalf who shall affirmatively state they have read

17 the notice of claim of lien and believe the notice of claim of lien to

18 be true and correct under penalty of perjury, and shall be acknowledged

19 pursuant to chapter 64.08 RCW. If the lien has been assigned, the name

20 of the assignee shall be stated. Where an action to foreclose the lien

21 has been commenced such notice of claim of lien may be amended as

22 pleadings may be by order of the court insofar as the interests of

23 third parties are not adversely affected by such amendment. A claim of

24 lien substantially in the following form shall be sufficient:

25 CLAIM OF LIEN

26 . . . . ., claimant, vs . . . . ., name of person indebted

27 to claimant:

28 Notice is hereby given that the person named below claims a

29 lien pursuant to chapter ((64.04)) 60.04 RCW. In support of

30 this lien the following information is submitted:

- 31 1. NAME OF LIEN CLAIMANT: . . . . .
- 32 TELEPHONE NUMBER: . . . . .
- 33 ADDRESS: . . . . .

34 2. DATE ON WHICH THE CLAIMANT BEGAN TO PERFORM LABOR,

35 PROVIDE PROFESSIONAL SERVICES, SUPPLY MATERIAL OR EQUIPMENT OR

36 THE DATE ON WHICH EMPLOYEE BENEFIT CONTRIBUTIONS BECAME DUE:





1 Subscribed and sworn to before me this . . . . day of . . . . .

2 . . . . .

3 The period provided for recording the claim of lien is a period of  
4 limitation and no action to foreclose a lien shall be maintained unless  
5 the claim of lien is filed for recording within the ninety-day period  
6 stated. The lien claimant shall give a copy of the claim of lien to  
7 the owner or reputed owner by mailing it by certified or registered  
8 mail or by personal service within fourteen days of the time the claim  
9 of lien is filed for recording. Failure to do so results in a  
10 forfeiture of any right the claimant may have to attorneys' fees and  
11 costs against the owner under RCW 60.04.181.

12 **Sec. 3.** RCW 18.27.010 and 2001 c 159 s 1 are each amended to read  
13 as follows:

14 Unless the context clearly requires otherwise, the definitions in  
15 this section apply throughout this chapter.

16 (1) "Contractor" means any person, firm, or corporation who or  
17 which, in the pursuit of an independent business undertakes to, or  
18 offers to undertake, or submits a bid to, construct, alter, repair, add  
19 to, subtract from, improve, move, wreck or demolish, for another, any  
20 building, highway, road, railroad, excavation or other structure,  
21 project, development, or improvement attached to real estate or to do  
22 any part thereof including the installation of carpeting or other floor  
23 covering, the erection of scaffolding or other structures or works in  
24 connection therewith or who installs or repairs roofing or siding; or,  
25 who, to do similar work upon his or her own property, employs members  
26 of more than one trade upon a single job or project or under a single  
27 building permit except as otherwise provided herein. "Contractor"  
28 includes any person, firm, corporation, or other entity covered by this  
29 subsection, whether or not registered as required under this chapter.

30 (2) "Department" means the department of labor and industries.

31 (3) "Director" means the director of the department of labor and  
32 industries or designated representative employed by the department.

33 (4) "General contractor" means a contractor whose business  
34 operations require the use of more than two unrelated building trades  
35 or crafts whose work the contractor shall superintend or do in whole or  
36 in part. "General contractor" shall not include an individual who does

1 all work personally without employees or other "specialty contractors"  
2 as defined in this section. The terms "general contractor" and  
3 "builder" are synonymous.

4 (5) "Partnership" means a business formed under Title 25 RCW.

5 (6) "Prime residential contractor" means a prime contractor, as  
6 defined in RCW 60.04.011, who is engaged in the business of  
7 constructing, altering, repairing, or remodeling residences.

8 (7) "Registration cancellation" means a written notice from the  
9 department that a contractor's action is in violation of this chapter  
10 and that the contractor's registration has been revoked.

11 (~~(7)~~) (8) "Registration suspension" means a written notice from  
12 the department that a contractor's action is a violation of this  
13 chapter and that the contractor's registration has been suspended for  
14 a specified time, or until the contractor shows evidence of compliance  
15 with this chapter.

16 (~~(8)~~) (9) "Residential homeowner" means an individual person or  
17 persons owning or leasing real property:

18 (a) Upon which one single-family residence is to be built and in  
19 which the owner or lessee intends to reside upon completion of any  
20 construction; or

21 (b) Upon which there is a single-family residence to which  
22 improvements are to be made and in which the owner or lessee intends to  
23 reside upon completion of any construction.

24 (~~(9)~~) (10) "Specialty contractor" means a contractor whose  
25 operations do not fall within the definition of "general contractor".

26 (~~(10)~~) (11) "Unregistered contractor" means a person, firm,  
27 corporation, or other entity doing work as a contractor without being  
28 registered in compliance with this chapter. "Unregistered contractor"  
29 includes contractors whose registration is expired, revoked, or  
30 suspended. "Unregistered contractor" does not include a contractor who  
31 has maintained a valid bond and the insurance or assigned account  
32 required by RCW 18.27.050, and whose registration has lapsed for thirty  
33 or fewer days.

34 (~~(11)~~) (12) "Unsatisfied final judgment" means a judgment that  
35 has not been satisfied either through payment, court approved  
36 settlement, discharge in bankruptcy, or assignment under RCW 19.72.070.

37 (~~(12)~~) (13) "Verification" means the receipt and duplication by  
38 the city, town, or county of a contractor registration card that is

1 current on its face, checking the department's contractor registration  
2 data base, or calling the department to confirm that the contractor is  
3 registered.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 60.04 RCW  
5 to read as follows:

6 If an owner has paid a prime contractor for certain work to be done  
7 by a subcontractor, or for materials, equipment, or labor to be  
8 provided, and the prime contractor has not paid either the  
9 subcontractor or for the materials, equipment, or labor in a timely  
10 manner, the lien that the prime contractor, subcontractor, supplier, or  
11 laborer may file against the owner's property is limited to the amount  
12 the owner still owes the prime contractor under the contract.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 60.04 RCW  
14 to read as follows:

15 When a subcontractor, supplier, or laborer does work for a prime  
16 contractor who does not pay for the work done by the subcontractor,  
17 supplier, or laborer and, as a result, the subcontractor, supplier, or  
18 laborer files a lien against the homeowner, that subcontractor,  
19 supplier, or laborer may not have a lien enforced at a later date  
20 against a homeowner if the work performed is for the same prime  
21 contractor.

--- END ---