

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

923T0525

## HOUSE BILL NO. 1120

Introduced by: Representatives Solum, Gibson, Kirkeby, Moser, and Turbiville and Senators Lederman, Hansen (Tom), Hundstad, and Maher

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the filing of claims  
2 against public improvement contracts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 5-22-9 be amended to read as follows:

5 5-22-9. At any time after the completion of any work or improvement for any public body  
6 the contractor may issue notice as ~~hereinafter~~ provided by this section, specifically stating that  
7 the improvement has been completed and requiring that all subcontractors or persons who  
8 furnished any items of labor, service, skill, material, equipment, or supplies for any  
9 subcontractor, naming them, ~~must~~ shall file their claims with the contractor within ~~one hundred~~  
10 ~~twenty~~ sixty days after the first publication of ~~said~~ the notice.

11 The notice shall specify the name and address of the public body, department, bureau,  
12 commission, or agency thereof which caused the improvement to be made and the name and  
13 address of the contractor, and that claims shall be filed at both addresses so specified. If the  
14 contractor be a nonresident of the State of South Dakota, ~~he~~ the contractor shall specify a place  
15 and address within the state where claims may be filed.



1 Section 2. That § 5-22-11 be amended to read as follows:

2 5-22-11. All claims for any items under the provisions of this chapter furnished by any  
3 subcontractor or by any person to any subcontractor for making ~~said~~ the improvement which are  
4 not filed in accordance with the provisions of ~~said~~ the notice within ~~one hundred twenty sixty~~  
5 days from the first publication ~~thereof~~ of the notice shall be barred as a lien or claim against the  
6 public body and contractor, and no action on any claim so barred ~~shall~~ may be maintained nor  
7 any right of setoff or counterclaim thereon enforced in any court in this state against the public  
8 body or the contractor nor against the surety or bonding company for either ~~but~~. However,  
9 nothing in this ~~statute~~ shall section in any manner ~~bar~~ bars the right of any person who has  
10 furnished any lienable items to any subcontractor to collect for the same from the ~~said~~  
11 subcontractor.