

## AN ACT

ENTITLED, An Act to revise certain provisions regarding mechanics' liens.

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

Section 1. That chapter 44-9 be amended by adding thereto a NEW SECTION to read as follows:

Any owner or any person entering into a direct agreement with the owner, or the duly authorized agent or representative of the owner, may file with the register of deeds of the county in which the improved premises are situated a notice of project commencement. The notice of project commencement shall contain the following information:

- (1) The name and address of the person filing the notice of project commencement;
- (2) The name and address of the owner or developer;
- (3) A general description of the improvement; and
- (4) The location of the project, including the legal description of the property.

The notice shall be filed within thirty days of the commencement of work and shall be accompanied by a filing fee of ten dollars to be deposited in the county's general fund. The register of deeds in each county shall maintain an index of all notices of project commencements.

Section 2. That chapter 44-9 be amended by adding thereto a NEW SECTION to read as follows:

Any person filing a notice of project commencement shall post the name and address of the contractor and location notice at the job site. The location notice shall contain the following statement: The contractor on this project has filed a notice of project commencement at the county courthouse. Any sub-subcontractor and any supplier to a subcontractor shall comply with the notice provisions of section 4 of this Act before filing liens in connection with this project.

Section 3. That chapter 44-9 be amended by adding thereto a NEW SECTION to read as follows:

The filing of a notice of project commencement does not constitute a cloud, lien, or encumbrance upon, or defect to, the title of the real property described in the notice, nor does it alter the aggregate amounts of liens allowable by applicable statute, nor does it affect the priority of any mortgage or

future advances under any mortgage.

Section 4. That chapter 44-9 be amended by adding thereto a NEW SECTION to read as follows:

If the provisions of sections 1 and 2 of this Act are first invoked, no sub-subcontractor or supplier to subcontractors is entitled to extend, pursuant to § 44-9-15, a lien created pursuant to subdivision 44-9-1(1), unless the sub-subcontractor or supplier has first provided notice of furnishing labor or materials by certified or registered mail to the contractor identified in the notice of project commencement and has provided a copy of the notice to the owner of record. Notice pursuant to this section shall be made not later than sixty days after doing the last of such work, or furnishing the last item of such skill, services, material, or machinery, and the post office receipt for mailing such notice shall be attached to the lien and filed in the office of register of deeds. Such notice of furnishing labor or materials shall include:

- (1) The name of the sub-subcontractor or supplier who claims payment;
- (2) The name of the person with whom the claimant contracted or by whom the claimant was employed;
- (3) A description of the labor, services, or materials furnished and the contract price or value thereof. Materials specifically fabricated by a person other than the one giving notice and contract price or value thereof shall be separately stated in the notice;
- (4) A description of the project, sufficient for identification;
- (5) The date when the first and last item of labor or materials was actually furnished or scheduled to be furnished; and
- (6) The amount claimed to be due, if any.

Any person who gives notice in accordance with this section may extend a lien as provided in § 44-9-15.

This section does not apply to claims of individual laborers when the amount of their lien is less than two thousand dollars.

Section 5. The effective date of this Act is July 1, 2000.

An Act to revise certain provisions regarding mechanics' liens.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1279

\_\_\_\_\_  
Chief Clerk  
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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1279

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

19\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 19\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 19\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State