

HOUSE BILL 343

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO LIENS; REQUIRING THAT THE COUNTY CLERK OF THE COUNTY IN WHICH A LIEN OF A MECHANIC OR A MATERIALMAN IS RECORDED SHALL, WITHIN TEN BUSINESS DAYS OF RECORDATION, MAIL A COPY OF THE LIEN TO THE OWNER OF RECORD OF THE REAL PROPERTY ENCUMBERED BY THE LIEN; PROVIDING FOR A FEE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 48-2-2.1 NMSA 1978 (being Laws 1990, Chapter 92, Section 2, as amended) is amended to read:

"48-2-2.1. PROCEDURE FOR PERFECTING CERTAIN MECHANICS'

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AND MATERIALMEN'S LIENS--FEES.--

A. The provisions of Subsections B through D of this section do not apply to claims of liens made on residential property containing four or fewer dwelling units, to claims of liens made by an original contractor or to claims of liens made by mechanics or materialmen who contract directly with the original contractor. For purposes of this section, "original contractor" means a contractor that contracts directly with the owner.

B. No lien of a mechanic or a materialman claimed in an amount of more than five thousand dollars (\$5,000) may be enforced by action or otherwise unless the lien claimant has given notice in writing of the claimant's right to claim a lien in the event of nonpayment and that notice was given not more than sixty days after initially furnishing work or materials, or both, by either certified mail, return receipt requested, facsimile with [~~acknowledgement~~] acknowledgment or personal delivery to:

(1) the owner or reputed owner of the property upon which the improvements are being constructed; or

(2) the original contractor, if any.

C. If the owner or the original contractor claims lack of notice as a defense to the enforcement of a lien described in Subsection B of this section, the owner or contractor shall show that upon the request of the mechanic or

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materialman that the owner or contractor furnished to the lien claimant not more than five days after such request was made:

(1) the original contractor's name, address and license number, if there is an original contractor on the project;

(2) the owner's name and address;

(3) a description of the property or a description sufficiently specific for actual identification of the property; and

(4) the name and address of any bonding company or other surety that is providing either a payment or performance bond for the project.

D. The notice required to be given by the claimant pursuant to the provisions of Subsection B of this section shall contain:

(1) a description of the property or a description sufficiently specific for actual identification of the property;

(2) the name, address and phone number, if any, of the claimant; and

(3) the name and address of the person with whom the claimant contracted or to whom the claimant furnished labor or materials, or both.

E. A person required by the provisions of Subsection B of this section to give notice to enforce the

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person's claim of lien may elect not to give the notice, but may give the required notice at a later time. If the person elects to do so, the lien shall apply only to the work performed or materials furnished on or after the date thirty days prior to the date the notice was given. The provisions of Subsections C and D of this section apply to any notice given under this subsection.

F. The county clerk of the county in which a lien of a mechanic or a materialman is recorded shall, within ten business days of recordation, mail a copy of the lien to the HLLC→~~owner of record of the real property encumbered by~~←HLLC HLLC→address of the owner as listed on←HLLC the lien. The county clerk HLLC→~~may~~←HLLC HLLC→shall←HLLC charge the person recording the lien HLLC→~~a~~←HLLC HLLC→an additional←HLLC fee of HLLC→~~not more than~~←HLLC twenty-five dollars (\$25.00) HLLC→~~for providing a copy of the lien to the real property owner~~←HLLC. HLLC→The fee shall be deposited in the county clerk's recording and filing fund.←HLLC"

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.