

**38-11-107 Restrictions upon maintaining a lien against residence or owner's interest in the residence.**

- (1)
- (a) A person qualified to file a lien upon an owner-occupied residence and the real property associated with that residence under Chapter 1a, Preconstruction and Construction Liens, who provides qualified services under an agreement, other than directly with the owner, is barred from maintaining a lien upon that residence and real property or recovering a judgment in any civil action against the owner or the owner-occupied residence to recover money owed for qualified services provided by that person if:
    - (i) an owner meets the conditions described in Subsections 38-11-204(4)(a) and (b); or
    - (ii)
      - (A) a subsequent owner purchases a residence from an owner;
      - (B) the subsequent owner who purchased the residence under Subsection (1)(a)(ii)(A) occupies the residence as a primary or secondary residence within 180 days from the date of transfer or the residence is occupied by the subsequent owner's tenant or lessee as a primary or secondary residence within 180 days from the date of transfer; and
      - (C) the owner from whom the subsequent owner purchased the residence met the conditions described in Subsections 38-11-204(4)(a) and (b).
  - (b)
    - (i) As used in this Subsection (1)(b):
      - (A) "Contract residence":
        - (I) means the owner-occupied residence for which a subcontractor provides service, labor, or materials; and
        - (II) includes the real property associated with that owner-occupied residence.
      - (B) "General contract" means an oral or written contract between an owner and an original contractor for providing service, labor, or materials for construction on an owner-occupied residence.
      - (C) "Subcontractor" means a person who provides service, labor, or materials for construction on an owner-occupied residence under an agreement other than directly with the owner.
    - (ii) A subcontractor qualified to file a lien upon a contract residence under Chapter 1a, Preconstruction and Construction Liens, is barred from maintaining a lien upon that contract residence or from recovering a judgment in a civil action against the owner, the contract residence, or, as provided in Subsection (1)(b)(iii), a subsequent owner to recover for service, labor, or materials provided by the subcontractor:
      - (A) if the amount of the general contract under which the subcontractor provides service, labor, or materials totals no more than \$5,000; and
      - (B) whether or not the original contractor is licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act.
    - (iii) A subsequent owner is protected under Subsection (1)(b)(ii) to the same extent as an owner if:
      - (A) the subsequent owner purchases the contract residence from the owner; and
      - (B)
        - (I) the subsequent owner occupies the residence as a primary or secondary residence within 180 days after the date of transfer; or
        - (II) the subsequent owner's tenant or lessee occupies the residence as a primary or secondary residence within 180 days after the date of the transfer.

- (2) If a residence is constructed under conditions that do not meet all of the provisions of Subsection (1)(a) or (b), that residence and the real property associated with that residence as provided in Section 38-1a-302 is subject to any lien as provided in Section 38-1a-301.
- (3) A lien claimant who files a preconstruction or construction lien under Chapter 1a, Preconstruction and Construction Liens, or a foreclosure action upon an owner-occupied residence is not liable for costs and attorney fees under Sections 38-1a-706 and 38-1a-707 or for any damages arising from a civil action related to the lien filing or foreclosure action if the lien claimant removes the lien within 15 days from the date the owner obtains a certificate of compliance and mails a copy of the certificate of compliance by certified mail to the lien claimant at the address provided for by Subsection 38-1a-502(2)(e). The 15-day period begins accruing from the date postmarked on the certificate of compliance sent to the lien claimant.

Amended by Chapter 278, 2012 General Session