

38-10-102.1 Perfection of lien -- Notice of subcontractor's claim -- Information required to be provided -- Payments to be held in trust.

- (1)
 - (a) To perfect a lien a subcontractor must comply with the requirements of this section and Section 38-10-105.
 - (b) This section shall apply only to a subcontractor's claim or a portion of a claim for amounts more than \$5,000, for work performed upon or materials or equipment furnished for each production unit.
- (2) A subcontractor shall provide notice of a subcontractor's claim to the owner and operator designated by the owner within 20 days after the commencement of work or the furnishing of materials or equipment.
- (3) The notice shall:
 - (a) be delivered, or mailed by certified mail, return receipt requested, to the:
 - (i) owner; and
 - (ii) operator designated by the owner;
 - (b) be considered delivered when deposited in the mail; and
 - (c) contain a statement setting forth the following information:
 - (i) identification of the lien claimant by full name, address, and telephone number;
 - (ii) the name of the person by whom he was employed or to whom he furnished material or equipment; and
 - (iii) a description of the property comprising the production unit.
- (4) Failure to deliver or mail the notice shall discharge and satisfy the lien attaching to the interest of the owner to the extent the owner pays a contractor or operator his share of all, or part, of the lien claimant's agreed contract price.
- (5)
 - (a) Any contractor or subcontractor shall provide, in writing, to each person with whom he contracts:
 - (i) the full name and address of the:
 - (A) owner of the production unit; and
 - (B) the operator designated by the owner; and
 - (ii) a description of the property comprising the production unit.
 - (b) Failure to provide the information required under this section within three days after the work is commenced or the materials and equipment are furnished shall entitle the claimant to an award of costs and attorneys' fees in an action against the person to enforce the contract.
- (6) Any contractor, operator, or subcontractor who receives payment for work performed upon, or material or equipment furnished for any production unit, shall hold all payments in trust for the person with whom he contracts for work upon, or the furnishing of materials or equipment for the production unit, for any amount remaining unpaid under the contract.

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