

1 **NOTICE OF RIGHTS TO REMOVE**

2 **MECHANICS LIEN**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Marda Dillree**

6 AN ACT RELATING TO LIENS; AMENDING PROVISION REGARDING NOTICE OF
7 CLAIM FOR MECHANICS LIENS; MAKING TECHNICAL CORRECTIONS; AND
8 PROVIDING ~~h~~ **AN h** EFFECTIVE DATE.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **38-1-7**, as last amended by Chapter 172, Laws of Utah 1995

12 *Be it enacted by the Legislature of the state of Utah:*

13 Section 1. Section **38-1-7** is amended to read:

14 **38-1-7. Notice of claim -- Contents -- Recording -- Service on owner of property.**

15 (1) A person claiming benefits under this chapter shall file for record with the county
16 recorder of the county in which the property, or some part of the property, is situated, a written
17 notice to hold and claim a lien within 90 days from the date:

18 (a) the person last performed labor or service or last furnished equipment or material on
19 a project or improvement for a residence as defined in Section 38-11-102; or

20 (b) of final completion of an original contract not involving a residence as defined in
21 Section 38-11-102.

22 (2) This notice shall contain a statement setting forth:

23 (a) the name of the reputed owner if known or, if not known, the name of the record
24 owner;

25 (b) the name of the person by whom ~~he~~ the lien claimant was employed or to whom ~~he~~
26 the lien claimant furnished the equipment or material;

27 (c) the time when the first and last labor or service was performed or the first and last

1 equipment or material was furnished;

2 (d) a description of the property, sufficient for identification; [and]

3 (e) the signature of the lien claimant or [his] the lien claimant's authorized agent [and];

4 (f) an acknowledgment or certificate as required under Title 57, Chapter 3, Recording of
5 Documents[. No]; and

6 (g) if the lien is on an owner-occupied residence, as defined in Section 38-11-102, a
7 statement describing what steps an owner, as defined in Section 38-11-102, may take to require
8 a lien claimant to remove the lien in accordance with Section 38-11-107.

9 (3) Notwithstanding Subsection (2), an acknowledgment or certificate is not required for
10 any notice filed after April 29, 1985, and before April 24, 1989.

11 ~~[(3)]~~ (4) (a) Within 30 days after filing the notice of lien, the lien claimant shall deliver
12 or mail by certified mail a copy of the notice of lien to [either];

13 (i) the reputed owner of the real property; or

14 (ii) the record owner of the real property [~~a copy of the notice of lien~~].

15 (b) If the record owner's current address is not readily available to the lien claimant, the
16 copy of the claim may be mailed to the last-known address of the record owner, using the names
17 and addresses appearing on the last completed real property assessment rolls of the county where
18 the affected property is located.

19 (c) Failure to deliver or mail the notice of lien to the reputed owner or record owner
20 precludes the lien claimant from an award of costs and attorneys' fees against the reputed owner
21 or record owner in an action to enforce the lien.

22 (5) The Division of Occupational and Professional Licensing shall make rules governing
23 the form of the statement required under Subsection (2)(g).

24 Section 2. **Effective date.**

25 This act takes effect on July 1, 1998.

Legislative Review Note
as of 11-17-97 10:24 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel