

LIEN AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: John E. Swallow

AN ACT RELATING TO LIENS; REQUIRING THE NAME, ADDRESS, AND TELEPHONE NUMBER OF A MECHANIC'S LIEN CLAIMANT TO BE INCLUDED IN THE NOTICE OF LIEN; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

38-1-7, as last amended by Chapter 49, Laws of Utah 1998

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

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

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

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

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

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

(2) ~~[This]~~ The notice required by Subsection (1), in order to be valid, shall contain a statement setting forth:

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

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

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

28 equipment or material was furnished;

29 (d) a description of the property, sufficient for identification;

30 (e) the name, current business address, and current business phone number of the lien
31 claimant;

32 [~~e~~] (f) the signature of the lien claimant or the lien claimant's authorized agent;

33 [~~f~~] (g) an acknowledgment or certificate as required under Title 57, Chapter 3, Recording
34 of Documents; and

35 [~~g~~] (h) if the lien is on an owner-occupied residence, as defined in Section 38-11-102,
36 a statement describing what steps an owner, as defined in Section 38-11-102, may take to require
37 a lien claimant to remove the lien in accordance with Section 38-11-107.

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

40 (4) (a) Within 30 days after filing the notice of lien, the lien claimant shall deliver or mail
41 by certified mail a copy of the notice of lien to:

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

43 (ii) the record owner of the real property.

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

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

51 (5) The Division of Occupational and Professional Licensing shall make rules governing
52 the form of the statement required under Subsection (2)[~~g~~](h).

Legislative Review Note
as of 12-28-98 11:07 AM

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

Office of Legislative Research and General Counsel