

165 ——— (ii) the record owner of the real property.  
166 ——— (b) If the record owner's current address is not readily available to the lien claimant, the  
167 copy of the claim may be mailed to the last-known address of the record owner, using the  
168 names and addresses appearing on the last completed real property assessment rolls of the  
169 county where the affected property is located.  
170 ——— (c) Failure to deliver or mail the notice of lien to the reputed owner or record owner  
171 precludes the lien claimant from an award of costs and attorneys' fees against the reputed  
172 owner or record owner in an action to enforce the lien.  
173 ——— (4) The Division of Occupational and Professional Licensing shall make rules  
174 governing the form of the statement required under Subsection (2)(a)(ix). }  
175 Section {~~5~~} 4 . Section 38-1-27 (Superseded 05/01/05) is amended to read:

4. Page 7, Line 194:

194 (c) If {~~a person has privity of contract with the~~} an original contractor has actual notice of  
a person's provision of labor, service, equipment, or material on a construction project , the failure of  
that

5. Page 9, Line 244:

244 Section {~~6~~} 5 . Section 38-11-203 is amended to read:

6. Page 10, Line 295:

295 Section {~~7~~} 6 . Section 38-11-204 is amended to read:

7. Page 14, Line 413:

413 Section {~~8~~} 7 . Section 63-56-38.1 (Effective 05/01/05) is amended to read:

8. Page 14, Line 426:

426 Section {~~9~~} 8 . Repealer.

9. Page 15, Line 429:

429 Section {~~10~~} 9 . Effective date.

10. Page 15, Line 432:

432 Section {~~11~~} 10 . Retrospective operation.

126 ~~—— [(b)] (c) Notwithstanding Section 38-1-2, where a subcontractor performs substantial~~  
127 ~~work after the applicable dates established by Subsections (1)[(a)](b)(i) and (ii), that~~  
128 ~~subcontractor's subcontract shall be considered an original contract for the sole purpose of~~  
129 ~~determining:~~  
130 ~~—— (i) the subcontractor's time frame to file a notice of intent to hold and claim a lien~~  
131 ~~under this Subsection (1); and~~  
132 ~~—— (ii) the original contractor's time frame to file a notice of intent to hold and claim a lien~~  
133 ~~under this Subsection (1) for that subcontractor's work.~~  
134 ~~—— [(c)] (d) For purposes of this section, the term "substantial work" does not include:~~  
135 ~~—— (i) repair work; or~~  
136 ~~—— (ii) warranty work[; or];~~  
137 ~~—— [(iii) work for which the project owner is not holding payment to ensure completion of~~  
138 ~~that work.]~~  
139 ~~—— (e) Notwithstanding Subsection (1)(b)(iii), final completion of the original contract~~  
140 ~~does not occur if work remains to be completed for which the owner is holding payment to~~  
141 ~~ensure completion of that work.~~  
142 ~~—— (2) (a) The notice required by Subsection (1) shall contain a statement setting forth:~~  
143 ~~—— (i) the name of the reputed owner if known or, if not known, the name of the record~~  
144 ~~owner;~~  
145 ~~—— (ii) the name of the person:~~  
146 ~~—— (A) by whom the lien claimant was employed; or~~  
147 ~~—— (B) to whom the lien claimant furnished the equipment or material;~~  
148 ~~—— (iii) the time when:~~  
149 ~~—— (A) the first and last labor or service was performed; or~~  
150 ~~—— (B) the first and last equipment or material was furnished;~~  
151 ~~—— (iv) a description of the property, sufficient for identification;~~  
152 ~~—— (v) the name, current address, and current phone number of the lien claimant;~~  
153 ~~—— (vi) the amount of the lien claim;~~  
154 ~~—— (vii) the signature of the lien claimant or the lien claimant's authorized agent;~~  
155 ~~—— (viii) an acknowledgment or certificate as required under Title 57, Chapter 3,~~  
156 ~~Recording of Documents; and~~  
157 ~~—— (ix) if the lien is on an owner-occupied residence, as defined in Section 38-11-102, a~~  
158 ~~statement describing what steps an owner, as defined in Section 38-11-102, may take to require~~  
159 ~~a lien claimant to remove the lien in accordance with Section 38-11-107.~~  
160 ~~—— (b) Substantial compliance with the requirements of this Subsection (2) is sufficient to~~  
161 ~~hold and claim a lien.~~  
162 ~~—— (3) (a) Within 30 days after filing the notice of lien, the lien claimant shall deliver or~~  
163 ~~mail by certified mail a copy of the notice of lien to:~~  
164 ~~—— (i) the reputed owner of the real property; or~~

# 1st Sub. S.B. 168

## CONSTRUCTION TRADE RELATED AMENDMENTS

Senator **Scott K. Jenkins** proposes the following amendments:

1. *Page 1, Lines 15 through 18:*

- 15           ▶        ~~{provides that there is no final completion of certain projects if work remains undone~~  
16 ~~for which the owner holds payment to ensure completion of the work; }~~  
17           ▶        ~~{exempts from the preliminary notice prerequisite to lien filing, and from other~~  
18 ~~provisions, a person with privity of contract with the original contractor }~~ exempts a person from the  
preliminary notice prerequisite to lien filing, and from other provisions, if the original contractor has  
actual notice that the person provided labor, service, equipment, or material ;

2. *Page 2, Line 38:*

- 38           ~~{ 38-1-7 (Superseded 05/01/05), as last amended by Chapter 85, Laws of Utah 2004 }~~

3. *Page 4, Line 106 through Page 6, Line 175:*

- 106           ~~{ Section 4. Section 38-1-7 (Superseded 05/01/05) is amended to read:~~  
107 ~~—— 38-1-7 (Superseded 05/01/05). Notice of claim -- Contents -- Recording -- Service~~  
108 ~~on owner of property.~~  
109 ~~—— (1) (a) A person claiming benefits under this chapter shall file for record with the~~  
110 ~~county recorder of the county in which the property, or some part of the property, is situated, a~~  
111 ~~written notice to hold and claim a lien within 90 days from the date of final completion of the~~  
112 ~~original contract under which the claimant claims a lien under this chapter.~~  
113 ~~—— (b) For purposes of this Subsection (1) and except as provided in Subsection (1)(c);~~  
114 ~~final completion of the original contract means:~~  
115 ~~—— (i) if as a result of work performed under the original contract a permanent certificate~~  
116 ~~of occupancy is required for such work, the date of issuance of a permanent certificate of~~  
117 ~~occupancy by the local government entity having jurisdiction over the construction project;~~  
118 ~~—— (ii) if no certificate of occupancy is required by the local government entity having~~  
119 ~~jurisdiction over the construction project, but as a result of the work performed under the~~  
120 ~~original contract an inspection is required for such work, the date of the final inspection for~~  
121 ~~such work by the local government entity having jurisdiction over the construction project; or~~  
122 ~~—— (iii) if with regard to work performed under the original contract no certificate of~~  
123 ~~occupancy and no final inspection are required by the local government entity having~~  
124 ~~jurisdiction over the construction project, the date on which there remains no substantial work~~  
125 ~~to be completed to finish such work on the original contract.~~