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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991



# ENROLLED

Com. Sub. for  
HOUSE BILL NO. 2674

(By ~~MR.~~ Del Roof + Blake )



Passed March 9, 1991

In Effect 90 Days From Passage

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**H. B. 2674**

(By DELEGATES ROOP AND BLAKE)

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[Passed March 9, 1991; in effect ninety days from passage.]

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AN ACT to amend and reenact sections one, two, five, six and sixteen, article two, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article two by adding thereto a new section, designated section six-a, relating to adding architects, engineers and landscape architects to those persons entitled to a mechanics' lien for services performed.

*Be it enacted by the Legislature of West Virginia:*

That sections one, two, five, six and sixteen, article two, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article two be further amended by adding thereto a new section, designated section six-a, all to read as follows:

**ARTICLE 2. MECHANICS' LIENS.**

**§38-2-1. Lien of contractor.**

1 Every person, firm or corporation who erects, builds,  
2 constructs, alters, removes or repairs any building or  
3 other structure, or other improvement appurtenant to  
4 any such building or other structure, or who alters or  
5 improves the real property whereon the same stands, or

6 to which it may have been removed, or who provides  
7 services for any of the foregoing, under and by virtue  
8 of a contract with the owner for such erection, building,  
9 construction, alteration, removal or repair, either for an  
10 agreed lump sum or upon any other basis of settlement  
11 and payment, shall have a lien upon such building or  
12 other structure or improvement appurtenant thereto,  
13 and upon the interest of the owner thereof in the real  
14 property whereon the same stands, or to which it may  
15 have been removed, to secure the payment of such  
16 contract price or other compensation therefor.

**§38-2-2. Lien of subcontractor.**

1 Every person, firm or corporation who, under and by  
2 virtue of a contract with such general contractor as is  
3 mentioned in section one of this article, or with a  
4 subcontractor for a part of such work, either for an  
5 agreed contract price or by day or by piece, or other  
6 basis of payment, shall furnish any part of the materials,  
7 machinery or other necessary supplies or equipment, or  
8 shall perform any labor, do any work or provide any  
9 services necessary to the completion of any general  
10 contract, such as is mentioned in section one of this  
11 article, shall have such a lien for his or her compensa-  
12 tion, as is provided for in section one of this article.

**§38-2-5. Lien of mechanic or laborer working for owner.**

1 Every workman, artisan, mechanic, laborer or other  
2 person, who performs any work or labor or provides any  
3 service in the erection, construction, repair or removal  
4 of any building or other structure or improvement  
5 appurtenant thereto, or who alters or improves the real  
6 property whereon the same stands, or to which it may  
7 have been removed, by virtue of a contract for such  
8 work and labor directly with the owner thereof, shall  
9 have such a lien for his or her compensation as is  
10 mentioned in section one of this article.

**§38-2-6. Lien of mechanic or laborer working for contractor or subcontractor.**

1 Every workman, artisan, mechanic, laborer or other  
2 person, who performs any work or labor or provides any

3 service under the employment of any general contractor  
4 or of any subcontractor in the erection, construction,  
5 repair or removal of any building or other structure, or  
6 improvement appurtenant thereto, or who alters or  
7 improves the real property whereon the same stands, or  
8 to which it may have been removed, necessary to the  
9 completion of such general contract, shall have such a  
10 lien for his or her compensation as is mentioned in  
11 section one of this article.

**§38-2-6a. Lien of architect, engineer or landscape architect.**

1 An architect, engineer or landscape architect shall  
2 have a lien for his or her compensation as provided for  
3 in sections one through six, inclusive, of this article for  
4 all materials furnished and all work done, or all services  
5 provided by such architect, engineer and landscape  
6 architect as a contractor, subcontractor, materialman,  
7 mechanic or laborer, as the case may be.

**§38-2-16. What deemed included in one contract.**

1 For the purposes of this article, all materials fur-  
2 nished, all work done, and all services provided by any  
3 one person, firm or corporation, upon any one building  
4 or the improvements appurtenant thereto, or upon the  
5 real property whereon the same stands, or to which it  
6 may have been removed, shall be deemed and consid-  
7 ered one contract, whether or not all of such material  
8 was bought at one time, or under one general agreement  
9 or otherwise, and whether or not all of such work, labor  
10 or services provided, was contracted for at one time or  
11 otherwise.

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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Donner Deek*

Chairman Senate Committee

*Ernest C Moore*

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Russell R. Nelson*

Clerk of the Senate

*Donald L. Kopp*

Clerk of the House of Delegates

*Keith Brundette*

President of the Senate

*Bob C. Chel*

Speaker of the House of Delegates

The within *is* approved..... this the *29<sup>th</sup>*  
day of *March*..... 1991.

*Gaston Caperton*

Governor

PRESENTED TO THE

GOVERNOR

Date 9/20/91

Time 4:55 pm