WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

ENROLLED

SENATE BILL NO. 121

(By Senator Oliverio, et al.)

PASSED March 24, 1997

In Effect Ninety Days from Passage
AN ACT to amend and reenact sections seven, nine, eleven and thirteen, article two, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to allowing all subcontractors and those providing labor or materials to contractors or subcontractors seventy-five days within which to claim their mechanics' liens.

Be it enacted by the Legislature of West Virginia:

That sections seven, nine, eleven and thirteen, article two, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:
ARTICLE 2. MECHANICS’ LIENS.

§38-2-7. Necessity and period for perfecting lien.

1. But the lien created and authorized by section one of this article shall be discharged from and after ninety days from the completion of the contract, and the lien created and authorized by section two of this article shall be discharged from and after seventy-five days from the completion of the subcontract, and the lien created and authorized by section three of this article shall be discharged from and after ninety days from the furnishing of the last of the materials, machinery or other supplies and equipment, and the lien created and authorized by section four of this article shall be discharged from and after seventy-five days from the date of the furnishing of the last of the materials, machinery or other equipment or supplies, and the lien created and authorized by section five of this article shall be discharged from and after ninety days from the date of the performing of the last of the work and labor, and the lien created and authorized by section six of this article shall be discharged from and after seventy-five days from the date of the performing of the last of the work and labor, unless within the respective periods, the claimant of any such lien shall have perfected and preserved the same, as hereinafter provided in this article.


1. For the purpose of perfecting and preserving his or her lien, every subcontractor mentioned in section two of this article shall, within seventy-five days after the completion of his or her subcontract, give to the owner or his or her authorized agent, by any of the methods provided by law for the service of a legal notice or summons, a notice of lien, which notice shall be sufficient if in form and effect as follows:

Notice of Mechanic’s Lien.

To ..................... .

You will please take notice that the undersigned ..................... was and is subcontractor with
.. who was and is general contractor for
the furnishing of materials and doing of the work and
labor, necessary to the completion of (here describe the
nature of the subcontract) on that certain building (or
other structure or improvement as the case may be),
owned by you and situate on lot number ...... of block
number ...... as shown on the official map of
...... (or other definite and ascertainable de-
scription of the real estate) and that the contract price and
value of said work and materials is $. ...... You are
further notified that the undersigned has not been paid
therefor (or has been paid only $. ...... thereof) and that
he claims and will claim a lien upon your interest in the
said lot (or tract) of land and upon the buildings, struc-
tures and improvements thereon to secure the payment of
the said sum.

State of West Virginia,
County of ........................................, being first
duly sworn, upon his oath says that the statements in the
foregoing notice of mechanic's lien are true, as he verily
believes.

Taken, subscribed and sworn to before me this ......
day of .........................., 19......
My commission expires ..........................

(Official Capacity)

But the lien shall be discharged and avoided, unless
within ninety days after the completion of his or her
subcontract as aforesaid the subcontractor shall cause to
be recorded in the office of the clerk of the county com-
mision of the county wherein the property is situate a
notice of the lien, which notice shall be sufficient if in
form and effect as that provided in section eight of this
article.

§38-2-11. Notice and recordation of lien for supplies furnished
to contractor or subcontractor.
For the purpose of perfecting and preserving his or her lien, every materialman or furnisher of machinery or other necessary equipment, who shall have furnished material, machinery or equipment under a contract with any contractor or with any subcontractor, as set forth in section four of this article, within seventy-five days after he or she shall have ceased to furnish such material or machinery or other equipment, shall give to the owner, or his or her authorized agent, by any of the methods provided by law for the service of a legal notice or summons, a notice of such lien, which notice shall be sufficient if in form and effect as follows:

Notice of Mechanic's Lien.

To .................

You will please take notice that the undersigned ................. has furnished and delivered to ................. who was contractor with you (or subcontractor with ................., who was contractor with you, as the case may be) for use in the erection and construction (or repair, removal, improvement, as the case may be) of (here list the buildings or other structure or improvement to be charged) on the real estate known as (here insert an adequate and ascertainable description of the real estate to be charged) and the said materials were of the nature and were furnished on the dates and in the quantities and at the price as shown in the following account thereof:

(Here insert itemized account.)

You are further notified that the undersigned has not been paid the sum of $ ....... (or that there is still due and owing to the undersigned thereon the sum of $ .......) and that he claims a lien upon your interest in the said lot (or tract) of land and upon the said buildings, structures and improvements thereon, to secure the payment of the said sum.

..................................
County of ................... , being first duly sworn,
upon his oath says that the statements in the foregoing
notice of lien contained are true, as he verily believes.

Taken, subscribed and sworn to before me this ...........
day of ........................, 19......

My commission expires ..........................

........................................

(Official Capacity)

But the lien shall be discharged and avoided, unless,
within ninety days after such materialman or other
furnisher of machinery or other necessary equipment shall
have ceased to furnish such materials or machinery or
other equipment, he or she shall cause to be recorded in
the office of the clerk of the county commission of the
county wherein such property is situate a notice of such
lien, which notice shall be sufficient if in form and effect
as that provided in section eight of this article, and which
recorded notice need not include such itemized account.

§38-2-13. Notice and recordation of lien of mechanic or laborer
working for contractor or subcontractor.

For the purpose of perfecting and preserving his or her
lien, every workman, artisan, mechanic, laborer or other
person who shall have performed any work or labor upon
the building or improvement thereto, under a contract
with any general contractor or with any subcontractor, as
set forth in section six of this article, shall cause to be
given to the owner, or his or her authorized agent, by any
of the methods provided by law for the service of a legal
notice or summons, within seventy-five days after he or
she shall have ceased to perform any such work or labor,
a notice of the lien, which notice shall be sufficient, if in
form and effect as follows:

Notice of Mechanic's Lien.

To ..............................

You will please take notice that the undersigned has
performed work and labor under a contract with
who was general contractor with you (or
who was subcontractor with ............... , who was
general contractor with you) in the erection and construc-
tion (or removal, repair, improvement or otherwise, as the
case may be) of a certain building (or other structure or
improvement) on real estate known as (here insert an
adequate and ascertainable description of the real estate
to be charged) and that the work and labor was of the
kind, was performed on the dates, for the purposes and at
the prices, as shown in the following itemized account
thereof:

(Here insert itemized account.)

You are further notified that the undersigned has not
been paid the sum of $ ...... (or that there is still due and
owing to the undersigned thereon the sum of $ ...... ) and
that he claims a lien upon your interest in the said lot (or
tract) of land and upon the buildings, structures and
improvements thereon to secure the payment of the sum.

State of West Virginia,

County of ............... , being first duly
sworn, upon his oath says that the statements in the
foregoing notice of mechanic's lien contained are true, as
he verily believes.

Taken, subscribed and sworn to before me this
........... day of ............... , 19 ......

My commission expires ...........

(Official Capacity)

But the lien shall be discharged, unless such workman,
artisan, mechanic, laborer or other person shall cause to
be recorded in the office of the clerk of the county com-
mission wherein such property is situate, within ninety
days after he or she shall have ceased to do work or
perform labor upon the building or improvement thereto, a
notice of the lien, which notice shall be sufficient if in
form and effect as that provided in section eight of this article and which recorded notice need not include such itemized account.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 27th day of        , 1997.

Governor