

SD 407

FILED

2002 FEB 28 A 9:46

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
Regular Session, 2002

**ENROLLED**

Committee Substitute for  
**SENATE BILL NO. 407**

(By Senator Sharpe )

**PASSED** February 18, 2002

In Effect ninety days from **Passage**

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 407**

(SENATOR SHARPE, *original sponsor*)

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[Passed February 18, 2002; in effect ninety days from passage.]

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AN ACT to amend and reenact sections seven, eight, nine, ten, eleven, twelve and thirteen, article two, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to increasing the periods in which a contractor, subcontractor, materialman and mechanic or laborer may perfect a lien for improvements to real property.

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

That sections seven, eight, nine, ten, eleven, twelve 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.**



11 Notice is hereby given, in accordance with the laws of  
12 the State of West Virginia, that the undersigned claims a  
13 lien to secure the payment of the sum of \$..... upon  
14 your interest in and to lot number ..... of block number  
15 ..... as shown on the official map of the city of .....  
16 (or other adequate and ascertainable description of the  
17 real estate to be charged) and upon the following build-  
18 ings, structures and improvements thereon: (List the  
19 buildings, structures or improvements sought to be  
20 charged.)

21 Given under my hand this ..... day of ....., 20....  
22 .....

23 State of West Virginia,

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

27 Taken, subscribed and sworn to before me this ..... day  
28 of....., 20....

29 My commission expires .....  
30 .....

31 (Official Capacity)

**§38-2-9. Notice and recordation of subcontractor's lien.**

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

9 Notice of Mechanic's Lien.

10 To.....

11 You will please take notice that the undersigned  
12 ..... was and is subcontractor with ..... who  
13 was and is general contractor for the furnishing of materi-  
14 als and doing of the work and labor, necessary to the  
15 completion of (here describe the nature of the subcontract)  
16 on that certain building (or other structure or improve-  
17 ment as the case may be), owned by you and situate on lot  
18 number ..... of block number ..... as shown on the official  
19 map of ..... (or other definite and ascertainable descrip-  
20 tion of the real estate) and that the contract price and  
21 value of said work and materials is \$..... You are further  
22 notified that the undersigned has not been paid therefor  
23 (or has been paid only \$..... thereof) and that he claims  
24 and will claim a lien upon your interest in the said lot (or  
25 tract) of land and upon the buildings, structures and  
26 improvements thereon to secure the payment of the said  
27 sum.

28 .....

29 State of West Virginia,

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

33 Taken, subscribed and sworn to before me this ..... day  
34 of ....., 20....

35 My commission expires .....

36 .....

37 (Official Capacity)

38 But the lien shall be discharged and avoided, unless,  
39 within one hundred days after the completion of his or her  
40 subcontract as aforesaid, the subcontractor shall cause to  
41 be recorded in the office of the clerk of the county commis-  
42 sion of the county wherein the property is situate a notice  
43 of the lien, which notice shall be sufficient if in form and  
44 effect as that provided in section eight of this article.



21 buildings or other structure or improvement to be charged  
22 on the real estate known as (here insert an adequate and  
23 ascertainable description of the real estate to be charged)  
24 and the said materials were of the nature and were fur-  
25 nished on the dates and in the quantities and at the price  
26 as shown in the following account thereof:

27 (Here insert itemized account.)

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

35 .....

36 State of West Virginia,

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

40 Taken, subscribed and sworn to before me this ..... day  
41 of ....., 20.....

42 My commission expires .....

43 .....

44 (Official Capacity)

45 But the lien shall be discharged and avoided, unless,  
46 within one hundred days after such materialman or other  
47 furnisher of machinery or other necessary equipment shall  
48 have ceased to furnish such materials or machinery or  
49 other equipment, he or she shall cause to be recorded in  
50 the office of the clerk of the county commission of the  
51 county wherein such property is situate a notice of such  
52 lien, which notice shall be sufficient if in form and effect

53 as that provided in section eight of this article and which  
54 recorded notice need not include such itemized account.

**§38-2-12. Notice and recordation of lien of mechanic or laborer working for owner.**

1 For the purpose of perfecting and preserving his lien  
2 every such workman, artisan, mechanic, laborer or other  
3 person as is mentioned in section five of this article who  
4 shall have done any work or performed any labor upon any  
5 such building or improvement, under a contract with the  
6 owner thereof, shall cause to be recorded in the office of  
7 the clerk of the county court of the county wherein such  
8 property is situate, within one hundred days after he shall  
9 have ceased to perform any such work or labor, a notice of  
10 his lien, which notice shall be sufficient if in form and  
11 effect as that provided in section eight of this article.

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

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

13 Notice of Mechanic's Lien.

14 To.....

15 You will please take notice that the undersigned has  
16 performed work and labor under a contract with .....  
17 who was general contractor with you (or who was subcon-

18 tractor with ....., who was general contractor with  
19 you) in the erection and construction (or removal, repair,  
20 improvement or otherwise, as the case may be) of a certain  
21 building (or other structure or improvement) on real estate  
22 known as (here insert an adequate and ascertainable  
23 description of the real estate to be charged) and that the  
24 work and labor was of the kind, was performed on the  
25 dates, for the purposes and at the prices, as shown in the  
26 following itemized account thereof:

27 (Here insert itemized account.)

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

34 .....

35 State of West Virginia,

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

39 Taken, subscribed and sworn to before me this .....  
40 day of ....., 20.....

41 My commission expires .....

42 .....

43 (Official Capacity)

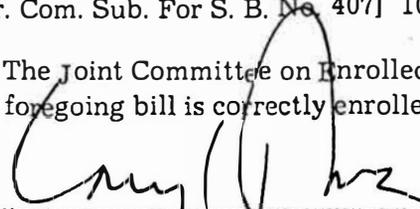
44 But the lien shall be discharged, unless such workman,  
45 artisan, mechanic, laborer or other person shall cause to be  
46 recorded in the office of the clerk of the county commis-  
47 sion wherein such property is situate, within one hundred  
48 days after he or she shall have ceased to do work or  
49 perform labor upon the building or improvement thereto,

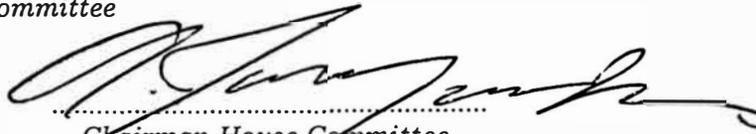
50 a notice of the lien, which notice shall be sufficient if in  
51 form and effect as that provided in section eight of this  
52 article and which recorded notice need not include such  
53 itemized account.

*[Faint, illegible handwritten text and signatures]*

Enr. Com. Sub. For S. B. No. 407] 10

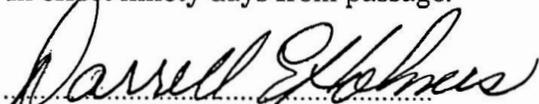
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

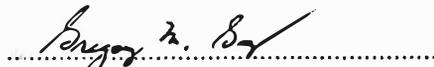
  
.....  
Chairman Senate Committee

  
.....  
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 2th  
Day of February, 2002.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/21/02

Time 4:07pm