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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2003



ENROLLED

Committee Substitute for

SENATE BILL NO. *387*

(By Senators *Sharpe, Ross and Oliverio* **)**



PASSED *March 7, 2003*

In Effect *from* **Passage**

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 387

(Senators Sharpe, Ross and Oliverio, *original sponsors*.)

[Passed March 7, 2003; in effect from passage.]

AN ACT to amend and reenact sections 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 mechanics' liens; altering the periods for perfecting certain liens; and removing archaic language.

Be it enacted by the Legislature of West Virginia:

That sections 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.

§38-2-11. Notice and recordation of lien for supplies furnished to contractor or subcontractor.

1 For the purpose of perfecting and preserving his or her
2 lien, every materialman or furnisher of machinery or other
3 necessary equipment who has furnished material, machin-
4 ery or equipment under a contract with any contractor or
5 with any subcontractor, as set forth in section four of this
6 article, within one hundred days after he or she has ceased
7 to furnish the material or machinery or other equipment
8 shall give to the owner or his or her authorized agent, by
9 any of the methods provided by law for the service of a
10 legal notice or summons, a notice of the lien. The notice
11 will be sufficient if in form and effect as follows:

12 Notice of Mechanic's Lien.

13 To.....

14 You will please take notice that the undersigned
15 has furnished and delivered to who was
16 contractor with you (or subcontractor with, who
17 was contractor with you, as the case may be) for use in the
18 erection and construction (or repair, removal, improve-
19 ment or otherwise, as the case may be) of (here list the
20 buildings or other structure or improvement to be charged)
21 on the real estate known as (here insert an adequate and
22 ascertainable description of the real estate to be charged)
23 and the said materials were of the nature and were fur-
24 nished on the dates and in the quantities and at the price
25 as shown in the following account thereof:

26 (Here insert itemized account.)

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

34

35 State of West Virginia,

36 County of, being first duly sworn, upon his

37 oath says that the statements in the foregoing notice of
38 lien contained are true, as he verily believes.

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

41 My commission expires

42
43 (Official Capacity)

44 The lien shall be discharged and avoided unless, within
45 one hundred days after the materialman or other furnisher
46 of machinery or other necessary equipment ceased to
47 furnish the materials or machinery or other equipment, he
48 or she recorded in the office of the clerk of the county
49 commission of the county wherein the property is situate
50 a notice of the lien. The notice shall be sufficient if in
51 form and effect as that provided in section eight of this
52 article. The recorded notice need not include the itemized
53 account.

**§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 has performed any work or labor upon the
4 building or improvement thereto, under a contract with
5 any general contractor or with any subcontractor, as set
6 forth in section six of this article, shall give to the owner,
7 or his or her authorized agent, by any of the methods
8 provided by law for the service of a legal notice or sum-
9 mons within one hundred days after he or she ceased to
10 perform any work or labor a notice of the lien. The notice
11 shall be sufficient, if in form and effect as follows:

12 Notice of Mechanic's Lien.

13 To.....

14 You will please take notice that the undersigned has
15 performed work and labor under a contract with
16 who was general contractor with you (or who was subcon-
17 tractor with, who was general contractor with
18 you) in the erection and construction (or removal, repair,

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

26 (Here insert itemized account.)

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

33

34 State of West Virginia,

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

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

40 My commission expires

41
42 (Official Capacity)

43 The lien shall be discharged unless the workman,
44 artisan, mechanic, laborer or other person shall record in
45 the office of the clerk of the county commission wherein
46 the property is situate, within one hundred days after he or
47 she ceased to do work or perform labor upon the building
48 or improvement thereto, a notice of the lien. The notice
49 shall be sufficient if in form and effect as that provided in
50 section eight of this article. The recorded notice need not
51 include the itemized account.

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

Carly M...
.....
Chairman Senate Committee

Shaun Spencer
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Russell Holmes
.....
Clerk of the Senate

Bruce D. ...
.....
Clerk of the House of Delegates

Carl Roy Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *20th*
Day of *March*, 2003.

Bob Wise
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/17/03

Time 9:45am