

HB 4698 S

FILED

2006 MAR 30 A 10: 03

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



# ENROLLED

## House Bill No. 4698

(By Mr. Speaker, Mr. Kiss and Delegates Amores,  
Craig, Michael, Pino, Stemple, Overington,  
Azinger and Hartman)



Passed March 9, 2006

In Effect Ninety Days from Passage

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**E N R O L L E D**

## **H. B. 4698**

(BY MR. SPEAKER, MR. KISS AND DELEGATES AMORES,  
CRAIG, MICHAEL, PINO, STEMPLER, OVERINGTON,  
AZINGER AND HARTMAN)

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[Passed March 9, 2006; in effect ninety days from passage.]

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AN ACT to amend and reenact §38-2-9 of the Code of West Virginia, 1931, as amended, relating to changing the filing time for a subcontractor's lien to one hundred days rather than seventy-five days to be consistent with the filing time for a mechanic's lien.

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

That §38-2-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

### **ARTICLE 2. MECHANICS' LIENS.**

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

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

8 Notice of Mechanic's Lien.

9 To.....

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

25 .....

26 State of West Virginia,

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

30 Taken, subscribed and sworn to before me this ..... day  
 31 of ....., 20.....

32 My commission expires .....

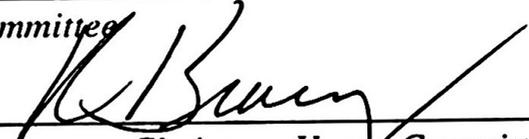
33 .....  
 34 (Official Capacity)

35 But the lien shall be discharged and avoided, unless, within  
 36 one hundred days after the completion of his or her subcontract

37 as aforesaid, the subcontractor shall cause to be recorded in the  
38 office of the clerk of the county commission of the county  
39 wherein the property is situate, a notice of the lien, which notice  
40 shall be sufficient if in form and effect as that provided in  
41 section eight of this article.

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

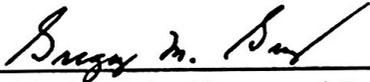
  
Chairman Senate Committee

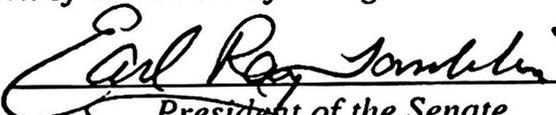
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 18th  
day of March, 2006.

  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 20 2006

Time 11:20 am