

1 gathered; establishing jurisdiction to enforce or
2 dispute liens; limiting time for claims to be filed;
3 authorizing court to award reasonable attorney fees
4 and actual damages; providing penalty for bad faith
5 claims; prescribing fees; directing deposit of fees;
6 describing how funds should be expended; creating
7 revolving fund; specifying type of fund; directing
8 budgeting and spending of funds by administrator;
9 limiting fund; providing for codification; and
10 providing an effective date.

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 160.1 of Title 42, unless there
14 is created a duplication in numbering, reads as follows:

15 This act shall be known and may be cited as the "Oklahoma
16 Construction Registry Act".

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 160.2 of Title 42, unless there
19 is created a duplication in numbering, reads as follows:

20 As used in the Oklahoma Construction Registry Act:

- 21 1. "Administrator" means the Secretary of State or designee;
- 22 2. "Construction registry" means a centralized computer
23 database maintained on the Internet by the administrator that
24 provides a central repository for the submission and management of
preliminary lien notices, notices of commencement of work on a
construction project, and mechanic's liens on properties;

1 3. "Construction registry number" means the number assigned by
2 the administrator for all construction project properties and posted
3 on the construction registry;

4 4. "General contractor" means every person who does work or
5 furnishes materials for a construction project, express or implied;

6 5. "Material" includes but is not limited to machinery, tools,
7 fixtures, wiring, concrete, gravel, stone, rock, trees, evergreens,
8 vines, plants, shrubs, tubers, bulbs, hedges, bushes, sod, soil,
9 dirt, mulch, peat, fertilizer, fence wire, fence material, fence
10 posts, tile and the use of forms, accessories and equipment; and

11 6. "Subcontractor" means every person furnishing material or
12 performing labor upon any building, erection or other improvement,
13 except those having contracts directly with a property owner.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 160.3 of Title 42, unless there
16 is created a duplication in numbering, reads as follows:

17 The administrator of the Oklahoma construction registry shall:

18 1. Employ personnel and procure supplies and equipment as may
19 be necessary to carry out and implement the requirements of the
20 Oklahoma Construction Registry Act;

21 2. Promulgate rules and prescribe forms to implement the
22 provisions of the Oklahoma Construction Registry Act; and
23
24

1 3. Administer any provision of the Oklahoma Construction
2 Registry Act through the use of the Internet or other technology as
3 deemed necessary or appropriate.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 160.4 of Title 42, unless there
6 is created a duplication in numbering, reads as follows:

7 A. Any person who shall, under oral or written contract with a
8 property owner, perform labor, furnish material or lease or rent
9 equipment used on the land for the erection, alteration or repair of
10 any building, improvement or structure thereon or perform labor to
11 any building, structure or improvements; or who shall plant any
12 material in or upon the land; or who shall build, alter, repair or
13 furnish labor, material or lease or rent equipment used on the land
14 for building, altering or repairing any fence or footwalk in or upon
15 the land, or any sidewalk in any street abutting the land, shall
16 have a lien upon the whole of the tract or piece of land, the
17 buildings and appurtenances in an amount inclusive of all sums owed
18 to the person at the time of the lien filing, including, without
19 limitation, applicable profit and overhead costs.

20 B. These liens shall be preferred to all other liens or
21 encumbrances which may attach to or upon the land, buildings or
22 improvements or either of them subsequent to the commencement of the
23 building, the furnishing or putting up of fixtures or machinery, the
24 planting of materials, the building of fence, footwalk or sidewalks,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 or the making of any repairs or improvements; and the lien shall
2 follow the property and each and every part thereof, and be
3 enforceable against the property wherever the same may be found, and
4 compliance with the provisions of the Oklahoma Construction Registry
5 Act shall constitute constructive notice of the lien to all
6 purchasers and encumbrancers of the property or any part thereof,
7 subsequent to the date of the furnishing of the first item of
8 material or the date of the performance of the first labor or the
9 first use of the rental equipment on the land.

10 SECTION 5. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 160.5 of Title 42, unless there
12 is created a duplication in numbering, reads as follows:

13 A. A person shall perfect a lien described in Section 4 of this
14 act by posting to the construction registry website a verified
15 statement of account of the demand due to the person after allowing
16 all credits, setting forth:

17 1. The date when the material was first furnished or labor
18 first performed, and the date on which the last of the material was
19 furnished or the last of the labor was performed;

20 2. The legal description of the property to be charged with the
21 lien;

22 3. The name and last-known mailing address of the owner of the
23 property;

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1 4. The address of the property or a description of the location
2 of the property if the property cannot be reasonably identified by
3 an address;

4 5. The parcel identification number; and

5 6. The construction registry number.

6 B. Upon posting of the lien, the administrator shall mail a
7 copy of the lien to the property owner. If the statement of the
8 lien consists of more than one page, the administrator may omit any
9 pages consisting solely of an accounting of the material furnished
10 or labor performed. In this case, the administrator shall attach a
11 notification that pages of accounting were omitted and may be
12 inspected on the construction registry.

13 C. A lien perfected under this section shall be limited to the
14 county in which the building, land or improvement to be charged with
15 the lien is situated. The county identified on the construction
16 registry at the time of posting the required notices pursuant to
17 Sections 7 and 8 of this act shall be the only county in which the
18 building, land or improvement may be charged with a mechanic's lien.

19 D. The statement of account described in subsection A of this
20 section shall be posted by a general contractor, subcontractor or
21 any other person who provides labor or furnishes materials no later
22 than fifteen (15) calendar days after providing the labor or
23 furnishing the materials.

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1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 160.6 of Title 42, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A general contractor who has contracted or will contract
5 with a subcontractor to provide labor or furnish material for the
6 property shall provide the property owner with the following notice
7 in writing in boldface type of a minimum size of ten points:

8 "Persons or companies furnishing labor or materials for the
9 improvement of real property may enforce a lien upon the improved
10 property if they are not paid for their contributions, even if the
11 parties have no direct contractual relationship with the owner. The
12 construction registry provides a listing of all persons or companies
13 furnishing labor or materials who have posted a lien or who may post
14 a lien upon the improved property."

15 B. The notice described in subsection A of this section shall
16 also contain the Internet website address and toll-free telephone
17 number of the construction registry.

18 C. A general contractor who fails to provide notice pursuant to
19 this section shall not be entitled to a lien and remedy provided by
20 the Oklahoma Construction Registry Act.

21 SECTION 7. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 160.7 of Title 42, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. A property owner who has contracted or will contract with a
2 general contractor or subcontractor to provide labor or furnish
3 material for the property shall post a notice of commencement of
4 work to the construction registry not later than one (1) day prior
5 to commencement of work on the property. A notice of commencement
6 of work is effective only as to any labor, service, equipment or
7 material furnished to the property subsequent to the posting of the
8 notice of commencement of work. A notice of commencement of work
9 shall include all of the following information:

10 1. The name and address of the property owner;

11 2. The name, address and telephone number of the general
12 contractor or subcontractors;

13 3. The address of the property or a description of the location
14 of the property if the property cannot be reasonably identified by
15 an address;

16 4. The legal description of the property;

17 5. The date work commenced;

18 6. The parcel identification number; and

19 7. Any other information prescribed by the administrator
20 pursuant to rule.

21 B. If a property owner fails to post the required notice of
22 commencement of work to the construction registry pursuant to
23 subsection A of this section, the Oklahoma Construction Registry Act
24 shall not apply and the lien process set forth in Sections 141

1 through 143.1 of Title 42 of the Oklahoma Statutes shall apply. A
2 notice of commencement of work shall be posted to the construction
3 registry before preliminary notices pursuant to Section 8 of this
4 act may be posted.

5 C. 1. At the time a notice of commencement of work is posted
6 on the construction registry, the administrator shall assign a
7 construction registry number and send a copy of the notice of
8 commencement of work to the general contractor and any
9 subcontractor; and

10 2. The notice of commencement of work shall contain the
11 following language:

12 "You may be entitled to lien on the property if you are not paid
13 for your contributions, even if you have no direct contractual
14 relationship with the property owner. The construction registry
15 provides a listing of all persons or companies furnishing labor or
16 materials who have posted a lien or who may post a lien upon the
17 improved property. The information in the construction registry is
18 posted on the Internet website of the construction registry."

19 Other relevant information may be included with the notice of
20 commencement of work as prescribed by the administrator pursuant to
21 rule.

22 SECTION 8. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 160.8 of Title 42, unless there
24 is created a duplication in numbering, reads as follows:

1 A. A subcontractor shall post a preliminary notice to the
2 construction registry website. A preliminary notice posted before
3 the balance due is paid to the general contractor or the property
4 owner is effective as to all labor, service, equipment and materials
5 furnished to the property by the subcontractor. The preliminary
6 notice shall contain all of the following information:

7 1. The name of the property owner;

8 2. The construction registry number;

9 3. The name, address and telephone number of the subcontractor
10 furnishing the labor, service, equipment or material;

11 4. The name and address of the person who contracted with the
12 claimant for the furnishing of the labor, service, equipment or
13 material;

14 5. The name of the general contractor under which the claimant
15 is performing or will perform the work;

16 6. The address of the property or a description of the location
17 of the property if the property cannot be reasonably identified by
18 an address;

19 7. The legal description of the property;

20 8. The date the material or materials were first furnished or
21 the labor was first performed;

22 9. The parcel identification number; and

23 10. Any other information required by the administrator
24 pursuant to rule.

1 B. At the time a preliminary notice is posted to the
2 construction registry, the administrator shall send notification to
3 the property owner, including the property owner notice described in
4 subsection A of Section 6 of this act, and shall docket the mailing
5 of the notice on the construction registry as prescribed by the
6 administrator pursuant to rule. Upon request, the administrator
7 shall provide an affidavit of mailing at no cost for the notice
8 required under this section.

9 C. A lien perfected under the Oklahoma Construction Registry
10 Act is enforceable only to the extent of the balance due the general
11 contractor or the owner at the time of the posting of the
12 preliminary notice specified in subsection A of this section, and
13 also is enforceable only to the extent of the balance due the
14 general contractor at the time the owner actually receives the
15 notice provided pursuant to subsection B or subparagraph b of
16 paragraph 1 of subsection D of this section.

17 D. In any action to enforce a lien perfected under the Oklahoma
18 Construction Registry Act against the property owner, the
19 subcontractor bears the burden to prove by a preponderance of the
20 evidence that the property owner received notice pursuant to
21 subsection B of this section.

22 1. A subcontractor may satisfy the burden of proof by providing
23 separate notice to a property owner by including but not limited to
24 any of the following means:

- 1 a. by certified mail with return receipt,
2 b. by personal service in the manner original notices are
3 required to be served, or
4 c. by actual notice with a signed receipt from the
5 property owner acknowledging notice.

6 2. If the subcontractor provides an affidavit of mailing, the
7 presumption is that the property owner received the notice on the
8 fourth day of business for the post office after the notice was sent
9 and the burden of proof shifts from the subcontractor to the
10 property owner to refute the presumption.

11 E. A subcontractor who fails to post a preliminary notice
12 pursuant to this section shall not be entitled to a lien and remedy
13 provided under the Oklahoma Construction Registry Act.

14 SECTION 9. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 160.9 of Title 42, unless there
16 is created a duplication in numbering, reads as follows:

17 Except as provided in Section 8 of this act, payment to the
18 general contractor or property owner of any part or all of the
19 contract price of the building or improvement within ninety (90)
20 days after the date on which the last of the materials was furnished
21 or the last of the labor was performed by a subcontractor does not
22 relieve the property owner from liability to the subcontractor for
23 the full value of any material furnished or labor performed upon the
24 building, land or improvement if the subcontractor posts a lien

1 within fifteen (15) days after the date on which the last of the
2 materials was furnished or the last of the labor was performed.

3 SECTION 10. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 160.10 of Title 42, unless there
5 is created a duplication in numbering, reads as follows:

6 A lien may be discharged at any time by submitting a bond to the
7 administrator in twice the amount of the sum for which the claim for
8 the lien is filed, with surety or sureties, to be approved by the
9 administrator, conditioned for the payment of any sum for which the
10 claimant may obtain judgment upon the claim.

11 SECTION 11. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 160.11 of Title 42, unless there
13 is created a duplication in numbering, reads as follows:

14 Nothing in the Oklahoma Construction Registry Act shall be
15 construed to require the property owner to pay a greater amount or
16 at an earlier date than is provided in the property owner's contract
17 with the general contractor, unless the property owner pays a part
18 or all of the contract price to the general contractor after the
19 property owner receives notice pursuant to subsection B or
20 subparagraph b of paragraph 1 of subsection D of Section 8 of this
21 act.

22 SECTION 12. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 160.12 of Title 42, unless there
24 is created a duplication in numbering, reads as follows:

1 Liens posted pursuant to the Oklahoma Construction Registry Act
2 shall have priority over each other in the order of the posting of
3 the statements of accounts as provided in Section 5 of this act.

4 SECTION 13. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 160.13 of Title 42, unless there
6 is created a duplication in numbering, reads as follows:

7 The administrator shall endorse upon every claim for a lien
8 posted to the construction registry the date and hour of posting.

9 Each claim shall be properly indexed and shall contain the following
10 items:

11 1. The name of the person who posted the lien;

12 2. The date and hour of posting;

13 3. The amount of the lien;

14 4. The name of the person against whom the lien is posted;

15 5. The legal description of the property to be charged;

16 6. The parcel identification number of the property to be
17 charged; and

18 7. The address of the property or a description of the location
19 of the property if the property cannot be reasonably identified by
20 an address.

21 SECTION 14. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 160.14 of Title 42, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. Any action to enforce a lien provided for in the Oklahoma
2 Construction Registry Act or resolve a lien dispute as a result of
3 the act shall be filed in the district court of the county where the
4 property that is subject to the lien is located.

5 B. Any action to enforce a lien subject to this act shall be
6 brought within two (2) years from the date on which the last of the
7 material was furnished or the last of the labor was performed.

8 C. In a court action to enforce or challenge a lien, if the
9 person challenging the lien prevails, the court may award reasonable
10 attorney fees and actual damages. If the court determines that the
11 lien was posted in bad faith or the supporting affidavit was
12 materially false, the court shall award the owner reasonable
13 attorney fees plus an amount not less than Five Hundred Dollars
14 (\$500.00) or the amount of the lien, whichever is less.

15 SECTION 15. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 160.15 of Title 42, unless there
17 is created a duplication in numbering, reads as follows:

18 A. Any person who perfects a lien pursuant to Section 5 of the
19 Oklahoma Construction Registry Act shall pay to the administrator a
20 fee of Five Dollars (\$5.00) for each statement of account posted to
21 the construction registry.

22 B. A property owner who posts a notice of commencement of work
23 pursuant to Section 7 of the Oklahoma Construction Registry Act
24 shall pay to the administrator a fee of Five Dollars (\$5.00).

1 C. All monies collected by the administrator for posting liens,
2 notices and other administrative fees shall be deposited by the
3 administrator and credited to the Oklahoma Construction Registry
4 Revolving Fund and such funds shall be used by the administrator to
5 implement and administer the provisions of the Oklahoma
6 Construction Registry Act.

7 SECTION 16. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 160.16 of Title 42, unless there
9 is created a duplication in numbering, reads as follows:

10 There is hereby created in the State Treasury a revolving fund
11 for the administrator to be designated the "Oklahoma Construction
12 Registry Revolving Fund". The fund shall be a continuing fund, not
13 subject to fiscal year limitations, and shall consist of fees for
14 posting liens and notices, administrative fees and any other monies
15 collected pursuant to the Oklahoma Construction Registry Act. All
16 monies accruing to the credit of the fund are hereby appropriated
17 and may be budgeted and expended by the administrator for
18 implementation and administration of the Oklahoma Construction
19 Registry Act. Expenditures from the fund shall be made upon
20 warrants issued by the State Treasurer against claims filed as
21 prescribed by law with the Director of the Office of Management and
22 Enterprise Services for approval and payment. This fund shall be
23 subject to and comply with the provisions of Section 211 of Title 62
24 of the Oklahoma Statutes.

1 SECTION 17. This act shall become effective November 1, 2014.

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3 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND FINANCIAL
4 SERVICES, dated 02/27/2014 - DO PASS, As Coauthored.
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