

subdivision 2. The guidelines and standards shall be consistent with the purposes of this act, the federal Wild and Scenic Rivers Act, and the federal Lower St. Croix River Act of 1972. The standards specified in the guidelines shall include but not be limited to the following: (1) The prohibition of new residential, commercial, or industrial uses other than those which are consistent with the above mentioned acts, and (2) the protection of riverway lands by means of acreage, frontage, and setback requirements on development. Cities, villages, boroughs, counties and towns lying within the areas affected by the guidelines are empowered to and shall adopt zoning ordinances complying with the guidelines and standards promulgated by the commissioner within the time schedule prescribed by the commissioner; (c) the administration, in cooperation with appropriate federal authorities and authorities of the state of Wisconsin, of state lands and waters in conformance with this act, the federal Wild and Scenic Rivers Act, and the federal Lower St. Croix River Act of 1972.

Sec. 2. **EFFECTIVE DATE.** This act is effective the day following final enactment.

Approved May 12, 1973.

CHAPTER 247—S.F.No.6

[Coded in Part]

An act relating to real estate; liens for improvements thereto; extent and amount thereof; requiring notice to owners; prescribing penalties; amending Minnesota Statutes 1971, Sections 514.01; 514.03; 514.05; 514.07; 514.08; and 514.11; and Chapter 514, by adding a section.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1971, Section 514.01, is amended to read:

514.01 MECHANICS LIENS; NOTICE. Whoever contributes to the improvement of real estate by performing labor, or furnishing skill, material or machinery for any of the purposes hereinafter stated, whether under contract with the owner of such real estate or at the instance of any agent, trustee, contractor or subcontractor of such owner, shall have a lien upon the improvement, and upon the land on which it is situated or to which it may be removed, ~~for~~

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~~the price or value of such contribution; that is to say, for the erection, alteration, repair, or removal of any building, fixture, bridge, wharf, fence, or other structure thereon, or for grading, filling in, or excavating the same, or for clearing, grubbing, or first breaking, or for furnishing and placing soil or sod, or for furnishing and planting of trees, shrubs, or plant materials, or for labor performed in placing soil or sod, or for labor performed in planting trees, shrubs, or plant materials, or for digging or repairing any ditch, drain, well, fountain, cistern, reservoir, or vault thereon, or for laying, altering or repairing any sidewalk, curb, gutter, paving, sewer, pipe, or conduit in or upon the same, or in or upon the adjoining half of any highway, street, or alley upon which the same abuts.~~

Sec. 2. Minnesota Statutes 1971, Chapter 514, is amended by adding a section to read:

[514.011] NOTICE. Subdivision 1. CONTRACTORS. Every person who enters into a contract with the owner for the improvement of real property and who has contracted or will contract with any subcontractors or materialmen to provide labor, skill or materials for the improvement shall give the owner the notice required in this subdivision. The notice shall be delivered personally or by certified mail to the owner or his authorized agent within ten days after the contract for the work of improvement is agreed upon. The notice shall be in at least 10-point bold type, if printed, or in capital letters, if typewritten and shall state as follows:

(a) Persons or companies furnishing labor or materials for the improvement or real property may enforce a lien upon the improved land if they are not paid for their contributions, even if such parties have no direct contractual relationship with the owner;

(b) Minnesota law permits the owner to withhold from his contractor so much of the contract price as may be necessary to meet the demands of all other lien claimants, pay directly such liens and deduct the cost thereof from the contract price, or withhold amounts from his contractor until the expiration of 90 days from the completion of such improvement unless the contractor furnishes to the owner waivers of claims for mechanics' liens signed by persons who furnished any labor or material for the improvement and who provided the owner with timely notice.

A person who fails to provide the notice shall not have the lien and remedy provided by this chapter.

The notice required by this subdivision is not required of any person who is himself an owner of the improved real estate, to any corporate contractor of which the owner of the improved real estate is an officer or controlling shareholder, to any contractor who is an officer or controlling shareholder of a corporation which

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is the owner of the improved real estate, or to any corporate contractor managed or controlled by substantially the same persons who manage or control a corporation which is the owner of the improved real estate.

Subd. 2. SUBCONTRACTOR TO GIVE NOTICE. Every person who contributes to the improvement of real property so as to be entitled to a lien pursuant to section 514.01 except a party under direct contract with the owner must, as a necessary prerequisite to the validity of any claim or lien, cause to be given to the owner or his authorized agent, either by personal delivery or by certified mail, not later than 20 days after the lien claimant has first furnished labor, skill or materials for the improvement, a written notice in at least 10-point bold type, if printed, or in capital letters, if typewritten, which shall state:

“NOTICE OF OWNER

TO: (name and address of owner)

We are authorized by law to provide you with this NOTICE. Your failure to read it carefully could result in unnecessary expense to you or in the loss of your

..... at
(type of property) (address of property)

We,, have been hired by
(name and address)
(of subcontractor)

your CONTRACTOR, to provide
(name of contractor)

..... for use in
(type of service) (or material)

improving your property. We estimate our charges will be..... If we are not paid

(value of service)
(or material)

by your CONTRACTOR, we can file a claim against your property for the price of our services unless you have ALREADY paid your CONTRACTOR in full. ENFORCEMENT OF OUR CLAIM COULD MEAN THE LOSS OF YOUR PROPERTY IF YOU ARE UNABLE TO PAY US FOR OUR SERVICES.

To protect yourself, Minnesota law allows you to either:

1. Withhold payment to your CONTRACTOR for up to 90 days from the completion of the improvement or until he provides you with a waiver of claim from us which states that we will not file a claim against your property; or

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2. Pay us directly and deduct the amount paid from the amount you owe your CONTRACTOR."

Subd. 3. MATERIALMEN: MAY REQUEST INFORMATION; OWNER DEFINED. A contractor who contracts with any subcontractors or materialmen to provide labor, skill or materials for the improvement shall upon request provide the subcontractor or materialman with the name and address of the owner. For purposes of this section "owner" means the owner of any legal or equitable interest in real property who enters into a contract for the improvement of such real property.

Subd. 4. EXCEPTIONS TO NOTICE REQUIREMENT. The notice required under this section shall not be required to be given where the contractor is managed or controlled by substantially the same persons who manage or control the owner of the improved real estate or in connection with an improvement to real property consisting of or providing (i) more than four family units and the improvement is wholly residential in character, or (ii) more than 10,000 total usable square feet of floor space and the improvement is partly or wholly nonresidential in character.

Sec. 3. Minnesota Statutes 1971, Section 514.03, is amended to read:

514.03 EXTENT AND AMOUNT OF LIEN. Subdivision 1. With respect to any contract or improvement as to which notice is not required by section 2, the lien shall be as follows:

(a) If the contribution be is made under a contract with the owner and for an agreed price, the lien as against him shall be for the sum so agreed upon; otherwise, and

(b) In all other cases, as against others than the owner, it shall be for the reasonable value of the work done, and of the skill, material, and machinery furnished.

Subd. 2. With respect to any contract or improvement as to which notice is required by section 2, the lien shall be as follows:

(a) If the contribution is made under a contract with the owner and for an agreed price, the lien as against him shall be for the sum agreed upon;

(b) In all other cases, it shall be for the reasonable value of the work done, and of the skill, material, and machinery furnished. Provided, however:

(c) The total sum of all liens, whether the contribution is made under a contract with the owner or otherwise, shall not exceed the total of said contract price plus the contract price or reasonable

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value of any additional contract or contracts between the owner and the contractor or additional work ordered by the owner, less the total of the following:

(i) Payments made by the owner or his agent to the contractor prior to receiving any notice prescribed by section 2, subdivision 2;

(ii) Payments made by the owner or his agent to discharge any lien claims as authorized by section 514.07; and

(iii) Payments made by the owner or his agent pursuant to presentation of valid lien waivers from persons or companies contributing to the improvement who have previously given the notice required by section 2, subdivision 2.

~~Subd. 3. It~~ The lien shall extend to all the interest and title of the owner in and to the premises improved, not exceeding 40 acres in area if situated outside the limits of an incorporated city or village, and not exceeding one acre if within such limits.

Sec. 4. Minnesota Statutes 1971, Section 514.05, is amended to read:

514.05 WHEN LIEN ATTACHES; NOTICE. All such liens, against the owner of the land, shall attach and take effect from the time the first item of material or labor is furnished upon the premises for the beginning of the improvement, and shall be preferred to any mortgage or other encumbrance not then of record, unless the lienholder had actual notice thereof. As against a bona fide purchaser, mortgagee, or encumbrancer without notice, no lien shall attach prior to the actual and visible beginning of the improvement on the ground, but a person having a contract for the furnishing of labor, skill, material, or machinery for such improvement, may file for record with the register of deeds of the county within which the premises are situated, or, if claimed under section 514.04, with the secretary of state, a brief statement of the nature of such contract, which statement shall be notice of his lien ~~for the contract price or value of all contributions to such improvement thereafter made by him or at his instance.~~

Sec. 5. Minnesota Statutes 1971, Section 514.07, is amended to read:

514.07 PAYMENTS WITHHELD; LIEN WAIVERS. The owner may withhold from his contractor so much of the contract price as may be necessary to meet the demands of all persons, other than such contractor, having a lien upon the premises for labor, skill, or material furnished for the improvement, and for which the contractor is liable; and he may pay and discharge all such liens and deduct the cost thereof from such contract price. ~~Any such person having a lien under the contractor, may serve upon the owner, at any time, a notice of his claim. No owner shall be required to pay~~

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his contractor until the expiration of 90 days from the completion of the improvement, except to the extent that the contractor shall furnish to the owner waivers of claims for mechanics' liens signed by persons who furnished labor, skill or material for the improvement and who have given the notice required by section 2, subdivision 2. The owner, within 15 days after the completion of the contract, may require any person having a lien hereunder, by written request therefor, to furnish to him an itemized and verified account of his lien claim, the amount thereof, and his name and address; and no action or other proceeding shall be commenced for the enforcement of such lien until ten days after such statement is so furnished. The word "owner," as used in this section, includes any person interested in the premises otherwise than as a lienor thereunder.

Sec. 6. Minnesota Statutes 1971, Section 514.08, is amended to read:

514.08 STATEMENT; NOTICE; NECESSITY FOR RECORDING; CONTENTS. Subdivision 1. The lien shall cease at the end of 90 days after doing the last of such work, or furnishing the last item of such skill, material, or machinery, unless within such period:

(1) A statement of the claim therefor, be filed for record with the register of deeds of the county in which the improved premises are situated, or, if the claim be made under section 514.04, with the secretary of state; and

(2) A copy of such statement be served personally or by certified mail on the owner or his authorized agent or the person who entered into the contract with the contractor.

Subd. 2. Such statement shall be made by or at the instance of the lien claimant, be verified by the oath of some person shown by such verification to have knowledge of the facts stated, and shall set forth:

(1) A notice of intention to claim and hold a lien, and the amount thereof;

(2) That such amount is due and owing to the claimant for labor performed, or for skill, material, or machinery furnished, and for what improvement the same was done or supplied;

(3) The names of the claimant, and of the person for or to whom performed or furnished;

(4) The dates when the first and last items of the claimant's contribution to the improvement were made;

(5) A description of the premises to be charged, identifying the same with reasonable certainty;

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(6) The name of the owner thereof at the time of making such statement, according to the best information then had; and

(7) The post-office address of the claimant. (The failure to insert such post-office address shall not invalidate the lien statement);

(8) That a copy of such statement has been served or mailed to the owner, his authorized agent or the person who entered into the contract with the contractor as provided herein; and

(9) That notice as required by section 2, subdivision 2, if any, was given.

Sec. 7. Minnesota Statutes 1971, Section 514.11, is amended to read:

514.11 COMMENCEMENT OF ACTION; PROCEEDINGS.
The action may be commenced by any lienholder who has filed his lien statement for record and served a copy thereof on the owner pursuant to section 514.08, and all other such lienholders shall be made defendants therein. The summons shall state that the complaint has been filed with the clerk and shall be of no effect unless such complaint be in fact so filed. It shall contain a notice that the action is brought to foreclose a lien, giving the amount thereof, and a brief description of the premises affected, and of the improvement out of which the lien arose, and shall require each defendant to file his answer to the complaint with the clerk within 20 days after service on him. Such answer, in addition to all other matters proper to be pleaded, shall set up any lien claimed by the defendant, and demand the enforcement thereof. No copies of such complaint or answer need be served on any party, upon demand or otherwise, and all averments of the answer shall be taken as denied without further pleading.

Sec. 8. This act shall apply to contracts for improvements entered into by the owner after January 1, 1974, at 12:01 A.M.

Approved May 15, 1973.

CHAPTER 248—H.F.No.178

[Coded]

An act relating to peace officers; providing benefits to survivors of peace officers killed in the line of duty; establishing a peace

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