

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective the day following final enactment.

Presented to the governor April 17, 2000

Signed by the governor April 20, 2000, 10:25 a.m.

CHAPTER 430—H.F.No. 2563

An act relating to liens; modifying mechanics' lien penalties; creating a civil cause of action; authorizing attorney fees; providing that proceeds are exempt from execution; imposing criminal penalties; amending Minnesota Statutes 1998, sections 514.02, subdivision 1, and by adding a subdivision; and 550.37, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1998, section 514.02, subdivision 1, is amended to read:

Subdivision 1. **PROCEEDS OF PAYMENTS; ACTS CONSTITUTING THEFT.** (a) Proceeds of payments received by a person contributing to an improvement to real estate within the meaning of section 514.01 shall be held in trust by that person for the benefit of those persons who furnished the labor, skill, material, or machinery contributing to the improvement. Proceeds of the payment are not subject to garnishment, execution, levy, or attachment. Nothing contained in this subdivision shall require money to be placed in a separate account and not commingled with other money of the person receiving payment or create a fiduciary liability or tort liability on the part of any person receiving payment or entitle any person to an award of punitive damages among persons contributing to an improvement to real estate under section 514.01 for a violation of this subdivision.

(b) ~~If a person, on any improvement to real estate within the meaning of section 514.01, fails to use the proceeds of any a payment made to that person on account of such for the improvement by the owner of such real estate or person having any improvement made, for the payment for labor, skill, material, and machinery contributed to such the improvement, knowing that the cost of any such the labor performed, or skill, material, or machinery furnished for such improvement remains unpaid, and who has not furnished to the person making such payment either a valid lien waiver as to any unpaid labor performed, or skill, material, or machinery furnished for such improvement under section 514.07, or a payment bond in the basic amount of the contract price for such the improvement, conditioned for the prompt payment to any person or persons entitled thereto for the performance of labor or the furnishing of skill, material, or machinery for the improvement, shall be guilty of theft of the proceeds of such the payment and upon conviction shall be fined not more than \$3,000 or imprisoned not more than one year, or both. is punishable under section 609.52. For~~

New language is indicated by underline, deletions by ~~strikeout~~.

an improvement to residential real estate made by a person licensed, or who should be licensed, under section 326.84, a shareholder, officer, director, or agent of a corporation who is responsible for the theft shall be guilty of theft of the proceeds.

(c) The penalties and remedies provided in this section do not apply to a third party who receives a payment in the ordinary course of business.

(d) For purposes of this section, "residential real estate" has the meaning given in section 326.83.

Sec. 2. Minnesota Statutes 1998, section 514.02, is amended by adding a subdivision to read:

Subd. 1a. CIVIL ACTION. A person injured by a violation of subdivision 1 may bring a civil action and recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney fees, and receive other relief as determined by the court, including, without limitation, equitable tracing. A civil action under this subdivision may be brought:

(1) against the person who committed the theft under subdivision 1; and

(2) for an improvement to residential real estate made by a person licensed, or who should be licensed, under section 326.84, against a shareholder, officer, director, or agent of a corporation who is not responsible for the theft but who knowingly receives proceeds of the payment as salary, dividend, loan repayment, capital distribution, or otherwise.

Sec. 3. Minnesota Statutes 1998, section 550.37, is amended by adding a subdivision to read:

Subd. 25. PROCEEDS FOR IMPROVEMENTS TO PROPERTY. Proceeds of payments received by a person for labor, skill, material, or machinery contributing to an improvement to real estate within the meaning of section 514.01.

Sec. 4. EFFECTIVE DATE.

Sections 1 and 2 are effective August 1, 2000, and apply to crimes committed on or after that date and civil claims for causes of action arising on or after that date.

Presented to the governor April 17, 2000

Signed by the governor April 20, 2000, 10:20 a.m.

CHAPTER 431—H.F.No. 2830

An act relating to crime prevention; enhancing the penalties for pimps of juvenile prostitutes; requiring a study by the commissioner of public safety and the executive director of the POST board on training peace officers to combat juvenile prostitution; amending Minnesota Statutes 1998, section 609.322, subdivision 1.

New language is indicated by underline, deletions by ~~strikeout~~.