

Required "Owner Notice" Language Under Iowa's New Lien Law

(Updated as of November 2, 2012)

Under Iowa's new mechanic's lien law and the current version of the corresponding administrative rules to be finalized and enacted later this year, all general contractors working on residential projects (both on new construction and remodeling/repair projects) will generally be required to post a "Notice of Commencement" to the new online registry, called the Mechanics' Notice and Lien Registry (or MNL), within ten (10) days of the commencement of each project, in order to preserve the right to later file a lien. As is logical, owner-builders (i.e., those who own the real estate/house during construction), are not entitled to a mechanic's lien for work performed while an owner-builder and, thus, owner-builders may opt not to file a Notice of Commencement.

Under the new law, such general contractors must still provide an "owner notice" to the owner, via a construction contract or separate notice, at the outset of the project, as is required under existing law, in order to preserve the right to later file a lien. To be clear, such general contractors must do both of the following in order to preserve their lien rights: (1) timely post a Notice of Commencement, and (2) provide an owner notice. The language of the owner notice has been slightly amended under the new law. See HF 675 at § 572.13. On September 25, 2012, the Secretary of State issued a press release containing the MNL's website address and toll-free telephone number, both of which are required to be contained within the Owner Notice.

Under the new law, the owner notice must be:

- In writing, i.e., either in the contract with the owner or in a separate notice provided to the owner,
- In boldface type,
- In at least ten point font, and
- State as follows:

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

The state construction registry can be found at www.sos.iowa.gov/mnlr, and the toll-free telephone number for the state construction registry is 888-767-8683.

General contractors should keep proof that they provided the required owner notice.