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This summary is not intended to be an all-inclusive discussion of Iowa's construction or mechanic's lien laws, but does include basic provisions.

What is a construction or mechanic's lien?

A construction or mechanic's lien is a security interest in the title to real property for the benefit of those who have supplied labor or materials that improve the property.

States differ widely in the method and time within which a party may act on their lien. Also varying widely are the requirements of written notices between property owners, contractors,

subcontractors and laborers, and in some cases lending institutions. As a general rule, these statutes are designed to prevent unpleasant surprises by compelling parties who wish to assert their legal rights to put all parties who might be interested in the property on notice of a claim or the possibility of a claim.

In this summary we will only be concerned with Iowa Statutes, Chapter 572 Mechanic's Lien. This chapter applies only to "private" works or improvements to privately owned real estate. "Public works" or improvements to publicly owned property is outside the scope of this summary.

Who is eligible to file a mechanic's lien in Iowa?

Every person who shall furnish any material or labor for, or perform any labor upon, any building or land for improvement, alteration, or repair thereof, including those engaged in the construction or repair of any work of internal or external improvement, and those engaged in grading, sodding, installing nursery stock, landscaping, sidewalk building, fencing on any land or lot, by virtue of any contract with the owner, the owner's agent, trustee, contractor, or subcontractor shall have a lien upon such building or improvement, and land belonging to the owner on which the same is situated or upon the land or lot so graded, landscaped, fenced, or otherwise improved, altered, or repaired, to secure payment for the material or labor furnished or labor performed. See Iowa Code § 572.2.

How is a mechanic's lien "perfected" in Iowa?

A lien is perfected in Iowa by the filing of a verified statement of account with the clerk of the district court of the county in which the property is situated setting forth:

- The dates when materials or labor was first furnished and when last furnished or performed.
- The legal description of the property improved.
- The Name and last known mailing address of the owner.

It is the responsibility of the clerk to forward the lien notice to the property owner. See Iowa Code § 572.8 and forms IA-01-09 and IA-01A-09.

How long does a party have to file a lien?

A party seeking to claim a lien must file the verified statement of account referred to in Iowa Code § 572.8 within ninety (90) days from the date the last of the labor or material was

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furnished. See Iowa Code § 572.9.

Can a mechanic’s lien be perfected beyond the 90 days after the date of last furnishing of materials or labor?

Yes, a contractor or a subcontractor may perfect a mechanic’s lien beyond ninety days authorized by Iowa Code § 572.8 after the date on which the last of the material was furnished or the last of the labor was performed by filing a claim with the clerk of the district court and giving written notice thereof to the owner. See Iowa Code § 527.10 and forms IA-02-09 and IA-02A-09.

How long do I have to file an action to enforce a mechanic’s lien?

An action to enforce a mechanic’s lien may be brought within two years from the expiration of the 90 days for filing a claim for the mechanic’s lien and not afterwards. See Iowa Code §§ 572.27 and 572.9.

Are liens assignable?

Iowa statutes on construction liens do not specifically speak as to whether liens may be assigned to other parties.

Does this state require or provide for a notice from subcontractors and laborers to property owners?

Yes. Iowa statutes require an original contractor who enters into a contract for an “owner occupied” dwelling to provide a statutory form notice in the contract with the owner occupier, advising of the possibility of a lien. If there is no contract, the contractor shall provide, within ten (10) days of commencement of work, a written notice listing all of the subcontractors the contractor intends to use, along with addresses. See Iowa Code § 572.13and forms IA-04-09 and IA-04A-09.

In addition, a subcontractor or other party not a contractor, working on an owner occupied dwelling, is required to provide a form notice advising the owner of the possibility of a lien and suggesting that the owner make no more payments to the contractor until receiving waivers of lien from the provider of the notice. Absent this notice, the property owner paying the principal contractor within ninety days after the date labor or materials were last furnished will have no liability to a subcontractor not paid by the principal contractor. See Iowa Code § 572.14 and forms IA-05-09 and IA-05A-09.

Does Iowa provide a method for the owner to force the lien claimant to commence and action to foreclose the lien?

The Iowa Code specifically provides that an owner, owner’s agent, or contractor may issue a written demand that a lien holder bring a suit to enforce a lien. Failure of the lien holder to bring a suit within thirty (30) days of being served with the demand shall result in the lien being forfeited. See Iowa Code § 572.28 and forms IA-08-09 and IA-08A-09.

Does this state require a notice prior to starting work, or after work has been completed?

No. Iowa statutes do not require a Notice of Commencement or a Notice of Completion as is required in some other states. But, Iowa Code § 572.33 does require a subcontractor furnishing labor or materials do the following before being entitled to a lien:

- a. Notifies the principal contractor in writing with a one–time notice containing the name, mailing address, and telephone number of the person furnishing the labor or materials, and the name of the subcontractor to whom the labor or materials were furnished, within thirty days of first furnishing labor or materials for which a lien claim may be made. Note that additional labor or material furnished subsequently will be covered by this one-time notice.
- b. Accompany the above notice with a certified statement that the principal contractor was provided the above information concerning the party furnishing labor or materials and the name of the subcontractor to whom the labor or materials were furnished. See Iowa Code § 572.33 and forms IA-10-09 and IA-10A-09.

Note that § 572.33 does not apply to a mechanic’s lien on single–family or two–family dwellings occupied or used or intended to be occupied or used for residential purposes.

Does this state permit a person with an interest in property to deny responsibility for improvements?

No. Iowa statutes do not have a provision which permits the denial of responsibility for improvements by way of notice.

Is a notice attesting to the satisfaction of a lien provided for or required?

Yes. A lien holder is required to provide a written acknowledgment of lien satisfaction after the payment of the lien claim. The owner or other party in interest may issue a written demand for such an acknowledgment. Failure of the lien holder to do so within thirty (30) days of

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receipt of the demand shall result in the lien holder being held liable as a result of any damages that result from the refusal. See Iowa Code § 572.23 and forms IA-06-09, IA-06A-09, IA-07-09 and IA-07A-09.

Does Iowa law provide a means to insure the Subcontractors are paid by the General or Principal Contractor?

Yes, under § 572.30, a contractor who engages a subcontractor or supplier to provide labor or materials on an owner-occupied dwelling must pay the subcontractor for labor and materials within 30 days after the contractor receives full payment from the owner. If the contractor fails to pay the subcontractor as required, the unpaid subcontractor or supplier may sue the contractor and recover in addition to the actual damages, “exemplary damages” against the contractor in an amount not less than 1 percent and not exceeding 15 percent of the amount due the subcontractor.

Prior to commencing an action to recover the amount due, a subcontractor, or the owner by subrogation, shall give notice of nonpayment of the cost of labor or materials to the principal contractor paid for the improvement. Notice of nonpayment must be in writing, delivered in a reasonable manner, and in terms that reasonably identify the real estate improved and the amount of the nonpayment. See Iowa Code § 572.30 and forms IA-09-09 and IA-09A-09.

Does this state permit the use of a bond to release a lien?

Yes. Iowa law permits a party with an interest in the property in question to file a bond in the amount of twice the lien claim with the county clerk. If the bond is approved, the lien upon the property shall be discharged. See Iowa Code § 572.15.

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