

ENROLLED ACT NO. 53, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

AN ACT relating to liens; reorganizing lien statutes as specified; generally amending and clarifying the process for filing liens; specifying time limits for filing forms; amending substantive rights under lien provisions; conforming statutes; authorizing attorney fees and costs as specified; amending definitions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 29-1-103 and 29-1-104, 29-1-312 through 29-1-314, 29-1-401 through 29-1-407, 29-1-501, 29-1-601, 29-2-112, 29-2-113, 29-9-101, 29-9-102 and 29-10-101 through 29-10-106 are created to read:

ARTICLE 1
GENERAL PROVISIONS

29-1-103. Short title.

W.S. 29-1-103 through 29-10-106 shall be known and may be cited as the "Revised Wyoming Statutory Lien Act".

29-1-104. Other lien statutes and legal processes not affected by this act.

(a) Unless other statutes relating to liens specifically provide that the procedures specified in chapter 1, 2, 9 or 10 of this act apply, this act is supplemental to and does not supersede any other lien statutes contained in chapters 3 through 8 of this act nor other lien statutes nor other statutes relating in any way to liens currently existing related to other types of property or other subject matters.

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(b) Nothing in this act shall affect or abridge:

(i) A right of setoff;

(ii) The right to file legal action based on equitable principles, including unjust enrichment, quantum meruit and other equitable doctrines; or

(iii) The right to enforce a lien otherwise created by contract.

29-1-312. Lien statement to be filed; contents; notice; fee.

(a) In order to have a perfected lien pursuant to this act, a lien claimant shall file with the county clerk a lien statement verifying the accuracy of the lien and the allegations set forth in the lien statement, sworn to and acknowledged by the lien claimant or his authorized representative before a notarial officer. The county clerk shall record and index the lien statement by date, names of claimant and property owner, and legal description of the property.

(b) The lien statement shall contain as appropriate the following information:

(i) The name and address of the lien claimant;

(ii) The amount claimed to be due and owing;

(iii) The name and address of the record owner against whose property the lien is filed;

(iv) An itemized list setting forth and describing materials delivered or work performed;

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(v) The name of the person whom the lien claimant alleges is contractually responsible to pay the debt secured by the lien;

(vi) The date when labor was last performed or services were last rendered or the date of substantial completion of the project;

(vii) The legal description of the property where the materials were furnished or upon which the work was performed; and

(viii) A copy of the contract, if available, or a summary of the lien claimant's contract together with a statement of the location where a copy of the contract, if written, can be obtained.

(c) Notice shall be sent by the lien claimant to the last record owner or his agent in the case of a real property lien within five (5) days after the lien statement is filed. The notice shall be in substantially the same format and contain the same information as the form of notice specified in W.S. 29-10-103. The notice forms shall be made available and may be obtained at the county clerk's office of each county.

(d) As a fee for recording a lien statement, the county clerk shall collect from the lien claimant the same fee as provided by W.S. 18-3-402(a)(xvi)(P). An irregularity in the lien statement may provide a valid defense for a party defending against the lien. The county clerk shall nevertheless file a lien statement at the date and time received by the county clerk, regardless of any irregularity, illegible language or other reason.

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(e) The recording fee under this section may be assessed as costs in any action to foreclose the lien.

(f) The lien statement shall be in substantially the same format and contain the same information as the form specified in W.S. 29-10-104. The lien statement forms shall be made available and may be obtained at the county clerk's office of each county.

29-1-313. Notice of satisfaction to be filed.

(a) Whenever any debt which is secured by a lien pursuant to this act is paid and satisfied, the lien claimant shall file notice of satisfaction of the lien in the office of the county clerk of any county in which the lien is filed and the lien claimant shall send the record owner a copy of the notice of satisfaction within five (5) days. The county clerk shall record and index the notice of satisfaction of the lien. The notice of satisfaction shall be acknowledged, but may be signed by the lien claimant or the attorney for the lien claimant.

(b) The notice of satisfaction shall be in substantially the same format and contain the same information as the notice of satisfaction form in W.S. 29-10-106. The notice of satisfaction forms shall be made available and may be obtained at the county clerk's office of each county.

29-1-314. Liability for failure to file a notice of satisfaction.

In addition to any actual damages, any lien claimant refusing or neglecting to file the notice of satisfaction as provided in W.S. 29-1-313 within thirty (30) days after payment, and after having received by certified or

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registered mail a request in writing to file the notice of satisfaction, is liable for damages of not less than one-tenth of one percent (.10%) of the original principal amount of the debt per day from the date the lien claimant receives the written request to file a notice of satisfaction, until the lien claimant files a notice of satisfaction. The damages authorized by this section shall not exceed one hundred dollars (\$100.00) per day.

ARTICLE 4
ACTIONS TO FORECLOSE LIENS

29-1-401. Jurisdiction of circuit and district court; Rules of Civil Procedure applicable in foreclosure action; attorney fees.

(a) All actions to foreclose a lien perfected under this act are quasi in rem proceedings and shall be commenced by filing a complaint in either the district court or, when required under W.S. 5-9-128(a)(vi), in the circuit court, in any county in which the property subject to the lien is located.

(b) In any action to foreclose a lien the Wyoming Rules of Civil Procedure shall govern.

(c) In the event an action is filed to foreclose a lien pursuant to this act, the prevailing party shall be entitled to recover from the nonprevailing party all costs and expenses reasonably associated with the action, including but not limited to reasonable attorney fees.

(d) Nothing in this section shall be construed to require a lien claimant to enforce his lien under this article if another method of enforcement is available under this act.

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29-1-402. Priority of liens.

(a) Except as provided in this section, the liens provided by this act shall be on an equal footing without reference to the date of the filing of the lien statement.

(b) Any lien perfected in compliance with this act attaches to the real property, fixtures, materials, machinery or supplies furnished and improvements made in preference to any subsequent lien, security interest or mortgage under any other provision of law which has been perfected upon real or personal property, including a leasehold interest, against which the lien is claimed.

(c) Any lien, security interest or mortgage which has been perfected upon real or personal property or upon a leasehold interest prior to the commencement of any construction work or repair of the premises or property, except as provided by chapter 7 of this act, or W.S. 29-8-102 relating to liens for the production of farm products under contracts executed, entered into, renewed or substantively amended on or after July 1, 2001, shall have priority.

(d) Where a sale is ordered by the court on foreclosure of any lien provided by this act and the proceeds from the sale are insufficient to discharge in full all of the liens, the proceeds shall be prorated among the several lien claimants according to the amounts of their respective claims.

29-1-403. Work or materials furnished considered done under same contract; exceptions.

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All work performed or materials furnished by a lien claimant shall be considered as having been done under the same contract unless more than one hundred eighty (180) days elapse from the date of the performance of any work or the furnishing of any materials and the date when work or materials are next performed or furnished by the lien claimant.

29-1-404. Notice of foreclosure to prior perfected lienholders; effect of failure to notify.

The holder of any prior perfected lien upon the real property is entitled to notice in suits to foreclose the lien. A foreclosure proceeding shall not be rendered invalid by failure to give the notice required by this section.

29-1-405. Remedies not exclusive.

The remedies provided by this act are not exclusive.

29-1-406. Filing and recording fees.

The county clerk shall be paid the same fees as provided by W.S. 18-3-402 for recording all papers under this act.

29-1-407. Consent to jurisdiction and venue.

By contracting to perform work or furnish materials on a project located in Wyoming, each contractor, subcontractor and materialman who asserts a lien submits to the laws of Wyoming and the jurisdiction of the district and circuit courts in the county in which the project is situated with respect to all lien claims, regardless of whether the lien claimant is a resident of Wyoming and regardless of whether the contract contains a contrary choice of law or venue

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provision. Venue for any mediation or arbitration of lien claims shall be proper only in the county in which the project is located, unless the parties agree otherwise.

ARTICLE 5
SUBSTITUTE SECURITY FOR LIENS

29-1-501. Substitute security to satisfy lien; filing and effect thereof; action upon security.

(a) Any lien created pursuant to this act filed against any real or personal property is satisfied if the owner of the property, contractor or subcontractor has deposited with the court having jurisdiction over the lien claim a corporate surety bond, letter of credit, cash or cash equivalent of established value approved by the court having jurisdiction over the lien claim in the county where the lien was filed in an amount equal to one and one-half (1½) times the amount of the lien.

(b) The security shall guarantee that if the lien claimant is finally adjudged to be entitled to recover upon the lien, the principal or his sureties, jointly and severally, in the case of a bond, or the issuer of a letter of credit shall pay the lien claimant the amount of the judgment for at least the amount for which the lien was filed plus costs and attorneys' fees.

(c) The security may be deposited any time prior to entry of a final judgment in an action to foreclose the lien.

(d) The security shall be deposited with the clerk of the court having jurisdiction over the lien claim in the county where the lien was filed.

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(e) Upon depositing the security and entry of an order of the court accepting the security, the lien against the property shall be forthwith discharged and released in full, and the security deposited pursuant to this section shall be substituted. The clerk of court shall issue a notice of satisfaction of lien which the owner or lien claimant may file in the office of the county clerk where the lien was filed which shall show that the lien has been satisfied.

(f) A lien claimant whose lien has been satisfied by the substitution of the security pursuant to subsection (e) of this section may bring an action upon the security. The action shall be commenced in the court in which the security was deposited under subsection (d) of this section.

ARTICLE 6
FALSE OR FRIVOLOUS LIENS

29-1-601. False or frivolous liens; damages; penalties.

(a) Any claim of lien against a federal, state or local official or employee based on the performance or nonperformance of that official's or employee's duties shall be invalid unless accompanied by a specific order from a court of competent jurisdiction authorizing the filing of the lien or unless a specific statute authorizes the filing of the lien.

(b) Any person whose real or personal property is subject to a recorded claim of lien who believes the claim of lien is invalid under subsection (a) of this section, was forged, or that the lien claimant knew at the time of filing that the lien was groundless, contained a material

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misstatement or false claim, may petition the court having jurisdiction over the lien of the county in which the claim of lien has been recorded for the relief provided in this subsection. The petition shall state the grounds upon which relief is requested, and shall be supported by the affidavit of the petitioner or his attorney setting forth a concise statement of the facts upon which the motion is based. The clerk of court shall assign a case number to the petition and obtain from the petitioner a filing fee of thirty-five dollars (\$35.00). Upon the filing of the petition the following shall apply:

(i) The court may enter its order, which may be granted ex parte, directing the lien claimant to appear before the court at a time no earlier than six (6) nor later than fifteen (15) days following the date of service of the petition, and order the lien claimant to show cause, if any, why the relief provided in this subsection should not be granted;

(ii) The order shall clearly state that if the lien claimant fails to appear at the time and place noted, the claim of lien shall be stricken and released, and that the lien claimant shall be ordered to pay damages of at least one thousand dollars (\$1,000.00) or actual damages, whichever is greater, and the costs incurred by the petitioner, including reasonable attorneys' fees;

(iii) The order and petition shall be served upon the lien claimant by personal service, or, where the court determines that service by mail or other comparable method of delivery is likely to give actual notice, the court may order that service be made by mailing or delivering copies of the petition and order to the lien claimant at his last known address or any other address determined by the court to be appropriate. Two (2) copies

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shall be sent, one (1) by ordinary first class mail and the other by a form of mail or other delivery method requiring a signed receipt showing when and to whom it was delivered. The envelopes shall bear the return address of the sender;

(iv) If, following a hearing on the matter the court determines that the claim of lien is invalid under subsection (a) of this section, was forged or that the lien claimant knew at the time of filing that the lien was groundless or contained a material misstatement or false claim, the court shall issue an order striking and releasing the claim of lien and awarding damages of one thousand dollars (\$1,000.00) or actual damages, whichever is greater, costs and reasonable attorneys' fees to the petitioner to be paid by the lien claimant;

(v) If the court determines that the claim of lien is valid, the court shall issue an order so stating and shall award costs and reasonable attorneys' fees to the lien claimant to be paid by the petitioner.

(c) Any person who offers to have recorded or filed a forged or groundless lien in violation of this section with the intent to threaten, harass or intimidate a public official or employee in the performance or nonperformance of his official duties is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both.

29-2-112. Preliminary notices.

(a) With respect to perfecting the right to file a construction lien under this chapter, the following preliminary notice requirements shall apply:

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(i) The contractor, subcontractor and materialman shall send written notice to the record owner or his agent, of the right to assert a lien against the property for which services or materials are provided if the contractor, subcontractor or materialman is not paid, and the right of the owner or contractor to obtain a lien waiver upon payment for services or materials. Each subcontractor and materialman shall provide a copy of the written notice to the contractor for which the subcontractor or materialman is providing services or materials;

(ii) Any notice required under this section shall be sent:

(A) By the contractor prior to receiving any payment from owner, including advances;

(B) By the subcontractor or materialman within thirty (30) days after first providing services or materials to the construction project.

(iii) Failure to send the notice required under this section within the time specified shall bar the right of a contractor, subcontractor or materialman to assert a lien;

(iv) The notice required under this section shall be in substantially the same format and contain the same information as the notice contained in W.S. 29-10-101. The form shall be made available and may be obtained at the county clerk's office of each county.

29-2-113. Identity of record owner or his agent provided.

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The contractor shall provide to subcontractors and materialmen at the time of contracting with them the name and address of the record owner and his agent, if applicable, and legal description of the site of the project on which work will be performed or materials furnished.

CHAPTER 9
MISCELLANEOUS LIENS

29-9-101. Lien of state on realty of debtor.

The amount of every account audited, adjusted and found due to the state including penalties and interest is a lien upon the real property of the person charged with the debt. The lien shall be in effect from the time suit commences for the recovery of the debt.

29-9-102. Lien of attorneys on papers and monies of clients.

(a) For professional services performed on behalf of a client, an attorney shall have a lien for compensation due him from the time of giving notice of the lien. The attorney's lien attaches upon:

(i) Any papers or money of his client which have come into his possession;

(ii) Money due his client and in the possession of an adverse party.

(b) Notice as required by subsection (a) of this section to be given to any person against whom the lien is asserted shall be given by certified mail, return receipt requested.

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CHAPTER 10
FORMS

29-10-101. Preliminary notice of right to lien; lien waiver form.

(a) Preliminary notice of right to a lien shall be sent to the record owner of the property against which the lien may be filed and shall be completed in substantially the following form:

Note to Lien Claimant: This form, if filled out correctly and sent within the time periods specified in W.S. 29-2-112, constitutes prima facie evidence that you have provided the content of the notice required by W.S. 29-2-112(a)(i). If you have any questions regarding how to fill out this form or whether it has been filled out properly, you should consult an attorney.

NOTICE TO OWNER

The undersigned party is providing work or materials to the property described below. Failure of payment due and owing to a contractor, subcontractor or materialman for work performed or materials provided to the project located on the property can result in the filing of a lien against the property. To avoid this result, when paying for labor and materials you may ask the contractor, subcontractor or materialman for "lien waivers" from all persons supplying materials or services. Failure to secure lien waivers may result in your paying for labor and materials twice. A form of lien waiver is attached to this notice.

Name, address and telephone number of contractor, subcontractor or materialman, and contact person:

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MATERIALS PROVIDED OR WORK PERFORMED:

PROPERTY DESCRIPTION:

ADDRESS:

LEGAL DESCRIPTION:

SIGNED: _____

DATE: _____

(b) The form for waiver of a lien shall be completed in substantially the following form:

Note to lien claimant: Signing this form has legal implications. If you have any questions regarding how to complete this form or whether it has been properly completed, you should consult an attorney.

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LIEN WAIVER

TO: _____ PROJECT: _____

FROM: _____

DATE: _____

PAYMENT: \$ _____

In consideration of the PAYMENT received to date, the undersigned does hereby waive, release, and relinquish any and all claim and/or right of lien against the project and the real property improvements thereto for labor and/or materials furnished for use in construction of the project; provided however, the undersigned reserves all claims and/or rights of lien as to monies withheld as retainage in the amount of \$ _____, and any labor and/or materials hereafter furnished for which payment has not yet been made. The undersigned has not been paid the sum of \$ _____ for work performed and/or materials provided under contract on this project and retains the right to file a lien against the property and pursue any and all actions to recover the full amount due, including any and all equitable claims. The undersigned acknowledges receipt of payment for work performed or materials provided and acknowledges that this waiver may be relied upon by the owner even if the undersigned accepts payment in uncertified funds and such payment is subsequently dishonored or revoked, in which case this lien waiver shall remain in full force and effect. The foregoing waiver shall not apply, however, if payment tendered by the owner is dishonored or revoked.

By: _____
subcontractor/materialman/employee

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you have any questions regarding how to fill out this form or whether it has been filled out properly, you should consult an attorney.

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

To: _____
Record owner or agent of owner (note: If there is more than one (1) owner, use a form for each owner)

Date: _____, 20__

Re: Notice of Intention to File Lien

You are hereby notified pursuant to W.S. 29-2-107 that _____ (hereinafter the "lien claimant") intends to file a lien against your property.

The amount of the lien claim is \$_____. This amount is due from _____ (person/entity whose actions have caused a lien to be filed) pursuant to a contract with the lien claimant under which the lien claimant performed work or supplied materials for the work.

If we are unable to resolve this matter within thirty (30) days from the date of this notice, the lien claimant intends to file the lien statement asserting a lien against your property.

cc: _____

29-10-103. Form of notice of filing lien.

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(a) Notice of filing a lien shall be sent to the record owner of the property against which the lien shall be filed and shall be completed in substantially the following form:

Note to lien claimant: This form, if filled out correctly and sent within the time periods specified in W.S. 29-2-107 constitutes prima facie evidence that you have provided the content of the notice required by W.S. 29-1-312(c). If you have any questions regarding how to fill out this form or whether it has been filled out properly, you should consult an attorney.

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

To: _____

Record owner or agent of owner (note: If there is more than one (1) owner, use a form for each owner)

Date: _____, 20__

Re: Notice of Filing Lien

This letter shall serve as notice to you pursuant to W.S. 29-1-312 that _____ (hereinafter the "lien claimant") has filed a lien against your property.

cc: _____

29-10-104. Form for lien statement.

(a) The lien statement shall be filed with the county clerk's office in the county where the property against

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6. The lien claimant last performed work, or furnished materials, for which the lien claimant asserts a lien on the _____ day of _____, 20__.

7. The legal description of the real property where the lien claimant performed work or furnished materials is set forth in Exhibit "B", attached hereto.

8. A true and accurate copy of the written contract, if available, under which the lien claimant performed work or furnished materials is attached hereto as Exhibit "C". If the contract was oral or is too extensive, the parties to the contract and contract terms are described below:

A copy of the written contract, if applicable, is located at the following address:

DATED this _____ day of _____, 20__.

Name of lien claimant: _____

By: _____

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29-2-112 within five (5) days after recording the notice under this section. The form shall be completed in substantially the following form:

(In bold face type) This notice creates a presumption under W.S. 29-2-106(c) that the period for filing a lien shall begin to run on the date the notice was recorded. If the recipient of the notice has not been paid in full, any lien to be filed on the property to secure full payment shall be filed by contractors within one hundred fifty (150) days of the date the notice was recorded and within one hundred twenty (120) days the notice was recorded for materialmen.

STATE OF _____)
) ss.
COUNTY OF _____)

NOTICE OF SUBSTANTIAL COMPLETION OF THE PROJECT

Pursuant to the provisions of W.S. 29-2-106(c), the undersigned hereby files its notice of substantial completion of the project, filed with the Clerk of _____ County on the _____ day of _____, 20____, commencing at Page _____ of Book _____.

Dated this _____ day of _____, 20____.

Name of record owner: _____

By: _____

Signature: _____

Title: _____

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Note to Notarial Officer: If the record owner is a legal entity formed under Title 17 of the Wyoming Statutes or other applicable law, use the first jurat. If the record owner is an individual or sole proprietor, use the second jurat.

(Alternative 1:)

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 20____, subscribed and sworn to before me personally appeared _____ (name of signatory), to me personally known, who has read the foregoing Notice of Substantial Completion of the Project and knows the contents thereof and the facts are true to the best of his/her knowledge, and being by me duly sworn, did state that he/she is the _____ (title, position or type of authority granted by record owner) of _____ (record owner) and that this Notice of Substantial Completion of the Project was signed and sealed on behalf of the record owner by authority granted to the signatory by the record owner.

Witness my hand and official seal.

Notarial officer

My Commission Expires:

Seal:

(Alternative 2:)

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STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 20____, subscribed and sworn to before me personally appeared _____ (name of signatory), to me personally known, who has read the foregoing Notice of Substantial Completion of the Project and knows the contents thereof and the facts are true to the best of his/her knowledge, and being by me duly sworn, did state that the Notice of Substantial Completion of the Project to be the free act and deed of the record owner.

Witness my hand and official seal.

Notarial officer

My Commission Expires:

Seal:

29-10-106. Form for notice of satisfaction of lien.

(a) The form for notice of satisfaction of a lien shall be filed with the county clerk's office in the county where the property against which the lien was filed is located, sent to the record owner and shall be completed in substantially the following form:

Note to lien claimant: This form, if filled out correctly and filed with the county clerk's office within the time period specified in W.S. 29-1-314 constitutes prima facie evidence that you have fulfilled your obligation to file a

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notice of satisfaction of the lien required by W.S. 29-1-313 and 29-1-314. If you have any questions regarding how to fill out this form or whether it has been filled out properly, you should consult an attorney.

STATE OF _____)
) ss.
COUNTY OF _____)

NOTICE OF SATISFACTION OF LIEN

Pursuant to the provisions of W.S. 29-1-313, the undersigned hereby files its notice of satisfaction of lien statement and hereby releases its lien(s), filed with the Clerk of _____ County on the _____ day of _____, 20____, commencing at Page _____ of Book _____.

Dated this _____ day of _____, 20____.

Name of lien claimant: _____

By: _____

Signature: _____

Title: _____

Note to Notarial Officer: If the lien claimant is a legal entity formed under Title 17 of the Wyoming Statutes or other applicable law, use the first jurat. If the lien claimant is an individual or sole proprietor, use the second jurat.

(Alternative 1:)

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STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 20____, subscribed and sworn to before me personally appeared _____ (name of signatory), to me personally known, who has read the foregoing Notice of Satisfaction of Lien and knows the contents thereof and the facts are true to the best of his/her knowledge, and being by me duly sworn, did state that he/she is the _____ (title, position or type of authority granted by lien claimant) of _____ (lien claimant) and that this Notice of Satisfaction of Lien was signed and sealed on behalf of the lien claimant by authority granted to the signatory by the lien claimant.

Witness my hand and official seal.

Notarial officer

My Commission Expires:

Seal:

(Alternative 2:)

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 20____, subscribed and sworn to before me personally appeared _____ (name of signatory), to me

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personally known, who has read the foregoing Notice of Satisfaction of Lien and knows the contents thereof and the facts are true to the best of his/her knowledge, and being by me duly sworn, did state that the Notice of Satisfaction of Lien to be the free act and deed of the lien claimant.

Witness my hand and official seal.

Notarial officer

My Commission Expires:

Seal:

Section 2. W.S. 5-9-128(a)(vi)(C), 29-1-201(a)(intro), (iv), (v)(intro), (vi), by creating new paragraphs (viii) through (xiii), (b)(intro) and (i), 29-2-101(a), (c) and by creating a new subsection (e), 29-2-103, 29-2-105(a)(intro), 29-2-106, 29-2-107, 29-2-108, 29-4-102, 29-5-103(b)(intro), 29-7-103(a), 29-8-102(a), 41-5-111(d) and 42-4-202(b)(intro) are amended to read:

5-9-128. Civil jurisdiction.

(a) Each circuit court has exclusive original civil jurisdiction within the boundaries of the state for:

(vi) Actions to foreclose and enforce the following statutory liens only, when the amount claimed on the lien does not exceed seven thousand dollars (\$7,000.00) exclusive of court costs:

(C) Liens for labor and services as provided by W.S. 29-5-101 through 29-5-106 and 29-7-101 through ~~29-7-202~~ 29-7-301; and

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29-1-201. Definitions; agency relationships presumed.

(a) Except as otherwise provided, as used in this ~~title-act~~:

(iv) "Lien claimant" means any person who claims a lien under this ~~title-act~~ pursuant to a contract for improvement of property entered into by an owner of the property;

(v) "Owner" ~~as used in this act~~ means:

(vi) "Subcontractor" ~~or "materialman"~~ means a person, other than a contractor performing work ~~or furnishing materials to an owner or~~ for a contractor or subcontractor under contract;

(viii) "Material" means:

(A) Component parts incorporated into the project; and

(B) Equipment and machinery, whether or not incorporated into the project.

(ix) "Materialman" means a person other than a contractor who furnishes material to, but does not perform work for, an owner, a contractor or subcontractor under contract;

(x) "Property" means real property, personal property, or both;

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(xi) "Real property" means all interests in real property, including but not limited to, the fee estate, leasehold interests, easements and rights of way;

(xii) "Send" or "sent" means, in connection with any writing or written notice, to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument to an address specified thereon or otherwise agreed, or if no address is specified, to any address reasonable under the circumstances. The foregoing method of delivery includes delivery by any commercial carrier that requests and maintains a receipt for delivery of written documents and also includes an electronic record as set forth in the Uniform Electronic Transactions Act if the sender and recipient have previously communicated by electronic means. In the event any writing is transmitted by mail with the United States postal service, such writing shall be mailed by certified mail, return receipt requested, or by mail delivery requiring a receipt for delivery. The time a writing is deemed to have been sent is the time at which the writing is deposited in the mail or delivered for transmission by any other means and, in the case of an electronic record, the time of sending is as specified in W.S. 40-21-115;

(xiii) "Written" or "writing" means printing, typewriting or any other intentional reduction to tangible form, including an electronic record created, generated, sent, communicated, received or restored by electronic means;

(xiv) "This act" means W.S. 29-1-103 through 29-10-106.

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(b) Only the following agency relationships are presumed in this ~~title-act~~:

(i) If any spouse enters into a contract for the performance of any work or the furnishing of any materials for the benefit of the property of the other spouse for which a lien is provided by this ~~title-act~~, the spouse contracting for the work shall be presumed to be the agent of the spouse owning the property;

29-2-101. Persons entitled to liens; extent of lien on realty; exceptions.

(a) ~~Except as provided in W.S. 29-2-111, Every person contractor, subcontractor or materialman performing any work on or furnishing any materials or plans for any building or any improvement upon land-real property shall have for his work done or plans or materials furnished a lien upon the building or improvements, and upon the land-real property of the owner on which they are situated to the extent of one (1) acre. If the improvements cover more than one (1) acre the lien shall extend to all the additional land-real property covered thereby.~~

(c) Notwithstanding subsection (a) of this section if the ~~land-real property~~ subject to a lien is located in any city, town or subdivision the lien shall extend to the entire lot upon which the building or improvement is located.

(e) The lien under this section shall extend to the owner's real property and easements to the extent necessary to provide legal access by a roadway for ingress and egress to the building, improvements or real property subject to the lien, not to exceed forty (40) feet in width to the nearest easement, public road or highway.

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29-2-103. Right of judicial sale and removal of improvements.

Any ~~person~~ lien claimant enforcing the lien ~~provided by this chapter~~ may have the building, ~~or~~ improvements and real property sold under execution. However, if any party establishes that the ~~land~~ real property, after removal of the improvement, would be in the same or similar condition as prior to the performance of the work for which the lien is claimed, the court may authorize the removal of the improvement. In addition to attorneys' fees and costs, the ~~party~~ lien claimant foreclosing the lien may be entitled to reasonable costs for removing any improvement or for restoring the property to its original condition.

29-2-105. Lien for improvements placed by tenant authorized by landlord.

(a) Notwithstanding the definition of "owner", if a tenant places any improvements either within or on the outside of any building or on the ~~land~~ real property on which the building stands, the person doing any work or furnishing any material for the purpose of the improvement shall have a lien upon the landlord's and the tenant's interest in the building and ~~land~~ real property as provided by this chapter if:

29-2-106. When statement lien to be filed; rights of subcontractor not abridged by contract between owner and contractor; agreement to extend filing period.

(a) ~~Every~~ Except as provided in subsection (c) of this section, any contractor asserting a lien under this chapter shall file his lien statement within ~~one hundred twenty (120)~~ one hundred fifty (150) days and every other

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person asserting a lien under this chapter shall file within ~~ninety (90)~~ one hundred twenty (120) days:

(i) Of the earlier of:

(A) After the last day when work was performed or materials furnished under contract; ~~or~~

~~(ii)~~ (B) From the date ~~the~~ of substantial completion of the project on which work was ~~substantially completed or substantial completion of the contract to furnish performed or~~ materials, ~~whichever is earlier were~~ furnished under contract; or

~~(iii)~~ (ii) With respect to ~~an employee or a~~ subcontractor, after the last day he performed work at the direction of ~~his employer or the~~ contractor or other person authorized to provide direction.

(b) No contract made between the record owner and the contractor shall be construed to affect or restrict the right of any subcontractor, ~~journeyman~~ or ~~worker~~ materialman to file a lien.

(c) The record owner may record a notice of substantial completion of the project in the records of the county clerk in the county where the project is located. If a notice of substantial completion of the project is recorded under this subsection, the date the notice is recorded shall be presumed to be the date of substantial completion of the project. After the notice has been duly recorded, the record owner shall send a copy of the notice within five (5) days to all contractors, subcontractors and materialmen who provided the record owner with preliminary notice pursuant to W.S. 29-2-112. The notice shall not extend the date by which a lien statement shall be filed as

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may otherwise be provided in this section. The time to file a lien statement by any contractor, subcontractor or materialman shall not be affected if the record owner fails to send the notice of substantial completion of the project.

(d) The notice of substantial completion of the project shall refer to this section, provide the date of substantial completion of the project on the notice and state in bold face type: "This notice creates a rebuttable presumption that the period for filing a lien shall begin to run as of the date the notice was recorded. If the recipient of the notice has not been paid in full, any lien to be filed on the property to secure full payment shall be filed by contractors within one hundred fifty (150) days of the date the notice was recorded and within one hundred twenty (120) days of the date the notice was recorded for materialmen."

~~(e)~~(e) Any party to a contract for which a lien may be filed may agree to an extension of the time within which the lien may be filed. The time agreed upon may not exceed twice the time within which the lien would have to be filed in accordance with subsection (a) of this section. The agreement shall be acknowledged before a notarial officer, and signed by the owner, the contractor and any other parties to the contract before it is valid. The agreement shall be filed with and recorded by the county clerk in the manner provided by W.S. ~~29-1-301~~29-1-312 for a lien statement. The lien rights of persons not signing the agreement are not affected by it.

~~(d)~~(f) A cooperative utility claiming a lien under W.S. 29-2-101(d) shall file its lien statement within one hundred eighty (180) days after the first date the provisions of W.S. 29-2-101(d)(i) and (ii) were met. The

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cooperative utility and its member may agree to an extension of the time in which the lien may be filed, but the agreement may not exceed a total time for filing the lien statement beyond three hundred sixty (360) days. Any agreement for an extension under this subsection shall otherwise comply with the requirements of subsection ~~(e)~~ (e) of this section.

29-2-107. Notice of intention to file lien.

(a) Before filing a lien pursuant to this chapter every person a lien claimant shall give ten (10) days send written notice to the record owner or his agent in writing of any claim against real property, a building or an improvement or for materials furnished stating the amount of any claim and from whom it is due. The notice shall be sent no later than twenty (20) days prior to filing a lien statement.

(b) The notice under this section shall be in substantially the same format and contain the same information as the notice form specified in W.S. 29-10-102. The notice forms shall be made available and may be obtained at the county clerk's office of each county.

29-2-108. Duty of contractor to defend action; liability of contractor to owner.

The contractor shall, at his own expense, defend any action brought by his employee, subcontractors hired by the contractor, their employees or by any suppliers of materials provided under contract in accordance with this chapter. ~~at his own expense.~~ During the pendency of the action the owner or his agent may withhold from the contractor the amount of money for which a lien is filed. If judgment is rendered against the owner or his property

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on the lien foreclosure, he may deduct from any amount due to the contractor the amount of the judgment and costs. If the owner has paid the contractor in full he may recover from the contractor any amount paid by the owner for which the contractor was originally liable.

29-4-102. Filing of lien statement; enforcement.

Any person entitled may file a lien statement as provided by W.S. ~~29-1-101~~29-1-103 through ~~29-1-308~~29-1-314 and 29-2-101 through ~~29-2-109~~29-2-113 and may enforce his lien in the same manner.

29-5-103. Lien statement to be filed; contents; mistake in description not fatal; notice to purchaser or owner.

(b) In addition to the requirements of W.S. ~~29-1-301(a)~~29-1-312(a) this statement shall contain:

29-7-103. Lien statement; additional contents; county clerk to note lien on certificate of title.

(a) A lien statement under W.S. 29-7-101 through 29-7-106 shall provide in addition to the requirements of W.S. ~~29-1-301(b)~~29-1-312(b) whether the lien claimant was in possession of the property at the time the lien statement was filed or the owner consented to the filing of the lien. Notwithstanding W.S. ~~29-1-301(a)~~29-1-312(a), a feeder's lien created pursuant to W.S. 29-7-101(a)(ii) shall be filed in the office of the secretary of state together with any applicable filing fees.

29-8-102. Producer's liens.

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(a) W.S. ~~29-1-101~~29-1-103 through 29-7-301 shall not apply to liens filed under this act.

41-5-111. Irrigation facility modification and maintenance.

(d) In order to have a perfected lien, a lien claimant shall file with the county clerk a lien statement that conforms to the requirements of W.S. ~~29-1-301~~29-1-312, and shall notify the last known record owner as provided in W.S. ~~29-1-301~~29-1-312. The county clerk shall ~~file~~record and index the statement as provided in W.S. ~~29-1-301~~29-1-312. When so perfected, the lien may be enforced in the same manner as provided in W.S. 29-4-101 and 29-4-102 and is subject to the limitation in W.S. 29-2-109.

42-4-202. Third party liability; authority; enforcement; notice; costs.

(b) The department may perfect and enforce its lien by following the procedures set forth in W.S. ~~29-1-301 and 29-1-302~~29-1-312 and 29-1-313, and its verified lien statement shall be filed with the appropriate clerk in the county of financial responsibility. The verified lien statement shall contain the following:

Section 3. W.S. 29-1-101 and 29-1-102, 29-1-301 through 29-1-311, 29-2-110 and 29-2-111 are repealed.

Section 4. The provisions of this act shall apply to all projects commenced on or after July 1, 2011. Any projects commenced prior to July 1, 2011, shall be governed by the lien procedures in title 29 that existed prior to July 1, 2011.

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Section 5. This act is effective July 1, 2011.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk