

3  
4 **Substitute for HOUSE BILL No. 2064**

5  
6 By Committee on Commerce and Labor

7  
8 2-25

9  
10 AN ACT concerning civil procedure; relating to filing time; amending  
11 K.S.A. 60-1102 and K.S.A. 2002 Supp. 60-1103 and repealing the ex-  
12 isting sections.

13  
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 60-1102 is hereby amended to read as follows: 60-  
16 1102. (a) *Filing.* Any person claiming a lien on real property, under the  
17 provisions of K.S.A. 60-1101, and amendments thereto, shall file with the  
18 clerk of the district court of the county in which property is located, within  
19 four months after the date material, equipment or supplies, used or con-  
20 sumed was last furnished or last labor performed under the contract a  
21 verified statement showing:

22 (1) The name of the owner,

23 (2) the name and address sufficient for service of process of the  
24 claimant,

25 (3) a description of the real property,

26 (4) a reasonably itemized statement and the amount of the claim, but  
27 if the amount of the claim is evidenced by a written instrument, or if a  
28 promissory note has been given for the same, a copy thereof may be  
29 attached to the claim in lieu of the itemized statement.

30 (b) *Recording.* Immediately upon the receipt of such statement the  
31 clerk of the court shall index the lien in the general index by party names  
32 and file number.

33 (c) *Notwithstanding subsection (a), a lien for the furnishing of labor,*  
34 *equipment, materials or supplies ~~of~~ on property other than residential*  
35 *property may be claimed pursuant to this section within five months only*  
36 *if the claimant has filed a notice of extension within four months since*  
37 *last furnishing labor, equipment, materials or supplies to the job site. Such*  
38 *notice shall be filed in the office of the district court of the county where*  
39 *such property is located and shall be mailed by certified and regular mail*  
40 *to the owner. The notice of extension shall contain substantially the fol-*  
41 *lowing statement:*

42 *Notice of Extension to File Contractor Lien*  
43

*Name of Contractor*

*Address of Contractor*

*Telephone Number of Contractor*

*Name and/or Number of Job*

*Address of Job Site*

Filing of such notice extends the time for filing a lien to five months for ~~the above~~ contractor, ~~supplier or other person~~ providing materials or labor on property owned by:

**(d) As used in this section and K.S.A. 60-1103, and amendments thereto, “residential property” means a structure which is constructed for use as a residence and which is not used or intended for use as a residence for more than two families.**

Sec. 2. K.S.A. 2002 Supp. 60-1103 is hereby amended to read as follows: 60-1103. (a) *Procedure.* Any supplier, subcontractor or other person furnishing labor, equipment, material or supplies, used or consumed at the site of the property subject to the lien, under an agreement with the contractor, subcontractor or owner contractor may obtain a lien for the amount due in the same manner and to the same extent as the original contractor except that:

(1) The lien statement must state the name of the contractor and be filed within three months after the date supplies, material or equipment was last furnished or labor performed by the claimant;

(2) if a warning statement is required to be given pursuant to K.S.A. 60-1103a, and amendments thereto, there shall be attached to the lien statement the affidavit of the supplier or subcontractor that such warning statement was properly given; and

(3) a notice of intent to perform, if required pursuant to K.S.A. 60-1103b, and amendments thereto, must have been filed as provided by that section.

(b) Owner contractor is defined as any person, firm or corporation who:

(1) Is the fee title owner of the real estate subject to the lien; and

(2) enters into contracts with more than one person, firm or corporation for labor, equipment, material or supplies used or consumed for the improvement of such real property.

(c) *Recording and notice.* When a lien is filed pursuant to this section, the clerk of the district court shall enter the filing in the general index. The claimant shall (1) cause a copy of the lien statement to be served

1 personally upon any one owner, any holder of a recorded equitable in-  
2 terest and any party obligated to pay the lien in the manner provided by  
3 K.S.A. 60-304, and amendments thereto, for the service of summons  
4 within the state, or by K.S.A. 60-308, and amendments thereto, for service  
5 outside of the state, (2) mail a copy of the lien statement to any one owner  
6 of the property, any holder of a recorded equitable interest and to any  
7 party obligated to pay the same by restricted mail or (3) if the address of  
8 any one owner or such party is unknown and cannot be ascertained with  
9 reasonable diligence, post a copy of the lien statement in a conspicuous  
10 place on the premises. The provisions of this subsection requiring that  
11 the claimant serve a copy of the lien statement shall be deemed to have  
12 been complied with, if it is proven that the person to be served actually  
13 received a copy of the lien statement. No action to foreclose any lien may  
14 proceed or be entered against residential real property in this state unless  
15 the holder of a recorded equitable interest was served with notice in  
16 accordance with the provisions of this subsection.

17 (d) *Rights and liability of owner.* The owner of the real property shall  
18 not become liable for a greater amount than the owner has contracted to  
19 pay the original contractor, except for any payments to the contractor  
20 made:

21 (1) Prior to the expiration of the three-month period for filing lien  
22 claims, if no warning statement is required by K.S.A. 60-1103a, and  
23 amendments thereto; or

24 (2) subsequent to the date the owner received the warning statement,  
25 if a warning statement is required by K.S.A. 60-1103a, and amendments  
26 thereto.

27 The owner may discharge any lien filed under this section which the  
28 contractor fails to discharge and credit such payment against the amount  
29 due the contractor.

30 (e) *Notwithstanding subsection (a)(1), a lien for the furnishing of la-*  
31 *bor, equipment, materials or supplies ~~of~~ on property other than residential*  
32 *property may be claimed pursuant to this section, and amendments*  
33 *thereto, within five months only if the claimant has filed a notice of ex-*  
34 *ension within three months since last furnishing labor, equipment, ma-*  
35 *terials or supplies to the job site. Such notice shall be filed in the office of*  
36 *the clerk of the district court of the county where such property is located*  
37 *and shall be mailed by certified and regular mail to the general contractor*  
38 *or construction manager and a copy to the owner by regular mail, if*  
39 *known. The notice of extension shall contain substantially the following*  
40 *statement:*

41 *Notice of Extension to File Lien*

42 \_\_\_\_\_  
43 **Name of Subcontractor or Supplier**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43

---

*Address of Subcontractor or Supplier*

---

---

*Telephone Number of Subcontractor or Supplier*

---

---

*Name and/or Number of Job*

---

---

*Address of Job Site*

---

*Filing of such notice extends the time for filing a lien to five months for ~~the~~  
**the above** subcontractor, supplier, or other **person** providing materials  
and labor on property owned by:*

---

*Owner's Name (if known)*

---

---

*Owner's Address (if known)*

---

Sec. 3. K.S.A. 60-1102 and K.S.A. 2002 Supp. 60-1103 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.