CONSTRUCTION LIEN ACT
Act 497 of 1980

AN ACT to establish, protect, and enforce by lien the rights of persons performing labor or providing material or equipment for the improvement of real property; to provide for defenses to construction liens; to provide remedies and prescribe penalties; and to repeal acts and parts of acts.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 2006, Act 497, Eff. Jan. 3, 2007;—Am. 2010, Act 147, Imd. Eff. Aug. 23, 2010.

The People of the State of Michigan enact:

PART 1

570.1101 Short title.

Sec. 101. This act shall be known and may be cited as the "construction lien act".

History: 1980, Act 497, Eff. Jan. 1, 1982.

570.1102 Meanings of words and phrases.

Sec. 102. For the purposes of this act, the words and phrases defined in sections 103 to 106 have the meanings ascribed to them in those sections.

History: 1980, Act 497, Eff. Jan. 1, 1982.

570.1103 Definitions.

Sec. 103. (1) "Actual physical improvement" means the actual physical change in, or alteration of, real property as a result of labor provided, pursuant to a contract, by a contractor, subcontractor, or laborer which is readily visible and of a kind that would alert a person upon reasonable inspection of the existence of an improvement. Actual physical improvement does not include that labor which is provided in preparation for that change or alteration, such as surveying, soil boring and testing, architectural or engineering planning, or the preparation of other plans or drawings of any kind or nature. Actual physical improvement does not include supplies delivered to or stored at the real property.

(2) "Co-lessee" means a person having an interest in real property, the nature of which is identical to that of the interest of the lessee who contracted for the improvement to the real property, whether the extent of such interest is identical or not.

(3) "Construction lien" means the lien of a contractor, subcontractor, supplier, or laborer, as described in section 107.

(4) "Contract" means a contract, of whatever nature, for the providing of improvements to real property, including any and all additions to, deletions from, and amendments to the contract.

(5) "Contractor" means a person who, pursuant to a contract with the owner or lessee of real property, provides an improvement to real property.

(6) "Co-owner" means a person having an interest in real property, the nature of which is identical to that of the interest of the owner who contracted for the improvement to the real property, whether the extent of such interest is identical or not.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982.

570.1104 Additional definitions.

Sec. 104. (1) "Court" means the circuit court in which an action to enforce a construction lien through foreclosure is pending.

(2) "Design professional" means an individual who is licensed or registered as an architect, professional engineer, or professional surveyor under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014, or a corporation, partnership, limited liability company, or other legal entity that is authorized under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014, to engage in the practice of any of these professions.

(3) "Designee" means a person named by an owner or lessee to receive, on behalf of the owner or lessee, all notices or other instruments required to be furnished under this act. The owner or lessee may name himself or herself as designee. The owner or lessee may not name the contractor as designee. However, a contractor who is providing only architectural or engineering services may be named as designee.

(4) "Fringe benefits and withholdings" means compensation due an employee pursuant to a written contract or written policy for holiday, time off for sickness or injury, time off for personal reasons or vacation, bonuses, authorized expenses incurred during the course of employment, and any other contributions made to

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or on behalf of an employee.

(5) "General contractor" means a contractor who contracts with an owner or lessee to provide, directly or indirectly through contracts with subcontractors, suppliers, or laborers, substantially all of the improvements to the property described in the notice of commencement.

(6) "Improvement" means the result of labor or material provided by a contractor, subcontractor, supplier, or laborer, including, but not limited to, surveying, engineering and architectural planning, construction management, clearing, demolishing, excavating, filling, building, erecting, constructing, altering, repairing, ornamenting, landscaping, paving, leasing equipment, and installing or affixing a fixture or material, pursuant to a contract.

(7) "Laborer" means an individual who, pursuant to a contract with a contractor or subcontractor, provides an improvement to real property through the individual's personal labor.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982;—Am. 2006, Act 497, Eff. Jan. 3, 2007;—Am. 2010, Act 147, Imd. Eff. Aug. 23, 2010;—Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018.

570.1105 Additional definitions.

Sec. 105. (1) "Lessee" means a person, other than the owner, who holds an interest, other than a security interest, in real property.

(2) "Lien claimant" means a person having a right to a construction lien under this act.

(3) "Owner" means a person holding a fee interest in real property or an equitable interest arising out of a land contract.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982.

570.1106 Additional definitions.

Sec. 106. (1) "Person" means an individual, corporation, partnership, association, other legal entity, or any combination of these.

(2) "Professional services" means services that are customarily and legally performed by or under the supervision or responsible control of design professionals in the course of their professional practice, including, but not limited to, programming, planning, surveying, site investigation, analysis, assessment, design, preparation of drawings and specifications, and construction administration services.

(3) "Project" means the aggregate of improvements contracted for by the contracting owner.

(4) "Residential structure" means an individual residential condominium unit or a residential building containing not more than 2 residential units, the land on which it is or will be located, and all appurtenances, in which the owner or lessee contracting for the improvement is residing or will reside on completion of the improvement.

(5) "Subcontractor" means a person, other than a laborer or supplier, who pursuant to a contract between himself or herself and a person other than the owner or lessee performs any part of a contractor's contract for an improvement.

(6) "Supplier" means a person who, pursuant to a contract with a contractor or a subcontractor, leases, rents, or in any other manner provides material or equipment that is used in the improvement of real property. Supplier does not include a design professional or a person that has a subcontract with a design professional as described in section 107b.

(7) "Wages" means all earnings of an employee, whether determined on the basis of time, task, piece, commission, or other method of calculation, for labor or services, except fringe benefits and withholdings.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982;—Am. 2006, Act 497, Eff. Jan. 3, 2007;—Am. 2010, Act 147, Imd. Eff. Aug. 23, 2010;—Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018.

570.1107 Construction lien generally.

Sec. 107. (1) Each contractor, subcontractor, supplier, or laborer who provides an improvement to real property has a construction lien upon the interest of the owner or lessee who contracted for the improvement to the real property, as described in the notice of commencement given under section 108 or 108a, the interest of an owner who has subordinated his or her interest to the mortgage for the improvement of the real property, and the interest of an owner who has required the improvement. A construction lien acquired pursuant to this act shall not exceed the amount of the lien claimant's contract less payments made on the contract.

(2) A construction lien under this act attaches to the entire interest of the owner or lessee who contracted for the improvement, including any subsequently acquired legal or equitable interest.

(3) Each contractor, subcontractor, supplier, or laborer who provides an improvement to real property to which the person contracting for the improvement had no legal title has a construction lien upon the improvement for which the contractor, subcontractor, supplier, or laborer provided labor, material, or

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equipment. The forfeiture, surrender, or termination of any title or interest held by an owner or lessee who contracted for an improvement to the property, an owner who subordinated his or her interest to the mortgage for the improvement, or an owner who has required the improvement does not defeat the lien of the contractor, subcontractor, supplier, or laborer upon the improvement.

(4) If the rights of a person contracting for an improvement as a land contract vendee or a lessee are forfeited, surrendered, or otherwise terminated, any lien claimant who has provided a notice of furnishing or is excused from providing a notice of furnishing under section 108, 108a, or 109 and who performs the covenants contained in the land contract or lease within 30 days after receiving actual notice of the forfeiture, surrender, or termination is subrogated to the rights of the contracting vendee or lessee as those rights existed immediately before the forfeiture, surrender, or termination.

(5) For purposes of this act, if the real property is owned or leased by more than 1 person, there is a rebuttable presumption that an improvement to real property under a contract with an owner or lessee was consented to by any other co-owner or co-lessee. If enforcement of a construction lien through foreclosure is sought and the court finds that the improvement was consented to by a co-owner or co-lessee who did not contract for the improvement, the court shall order the entire interest of that co-owner or co-lessee, including any subsequently acquired legal or equitable interest, to be subject to the construction lien. A deficiency judgment shall not be entered against a noncontracting owner, co-owner, lessee, or co-lessee.

(6) If the real property of an owner or lessee is subject to multiple construction liens, the sum of the construction liens shall not exceed the amount the owner or lessee agreed to pay the person with whom he or she contracted for the improvement as modified by all additions, deletions, and other amendments, less payments made by or on behalf of the owner or lessee, pursuant to either a contractor's sworn statement or a waiver of lien, in accordance with this act.

(7) After the effective date of the amendatory act that added this subsection, a construction lien of a subcontractor or supplier for an improvement to a residential structure shall only include an amount for interest, including, but not limited to, a time-price differential or a finance charge, if the amount is in accordance with the terms of the contract between the subcontractor or supplier and the contractor or subcontractor and does not include any interest that accrues after 90 days after the claim of lien is recorded.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982;—Am. 2006, Act 497, Eff. Jan. 3, 2007.

570.1107a Construction lien for professional services contract by design professionals; notice of contract; form; recording; validity, effectiveness, and duration of notice; applicability to other liens.

Sec. 107a. (1) A design professional who enters into a written contract with an owner, or with a person acting as an agent of the owner, to provide professional services relating to the proposed or actual erection, alteration, repair, or removal of a structure on or other improvement to real property may record a notice with the register of deeds for the county in which the property is located. The notice must be in substantially the following form:

NOTICE OF PROFESSIONAL SERVICES CONTRACT

Under a written contract dated _____ between _____, owner, and _____, design professional, the design professional is to furnish or has furnished professional services relating to the proposed or actual erection, alteration, repair, or removal of a structure on or other improvement to real property described as follows:

Insert description of services

The legal description of the real property is as follows:

Insert legal description

(2) A design professional may record a notice under subsection (1) at any time after the written contract is executed regardless of whether the professional services under the written contract have been commenced or completed, and regardless of whether the erection, alteration, repair, or removal of the structure or the other improvement to which the professional services relate has been, or is ever, commenced or completed. However, a design professional shall not record a notice later than 90 days after the design professional, or another person acting by, through, or under the design professional, last performed professional services.

(3) A notice under this section is valid for 1 year after the date it is recorded. The design professional may record a subsequent notice with respect to the written contract. All of the requirements of this section, including the time limitation of subsection (2), apply to a subsequent notice.

(4) If an actual physical improvement is made to the property after a notice is recorded under this section, the notice is only effective from the date of the first actual physical improvement.

(5) This section, or the recording of a notice under this section, does not affect the requirements of this act

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regarding the creation of a construction lien, including requirements of section 107, the steps necessary to claim a lien, or the manner of enforcing a lien.

History: Add. 2018, Act 367, Imd. Eff. Dec. 12, 2018.

570.1107b Construction lien for subcontract for professional services with design professional; approval by owner; notice of subcontract; form; recording; validity, effectiveness, and duration of notice; applicability to other liens.

Sec. 107b. (1) A person that furnishes professional services under a written subcontract with a design professional who has recorded a notice under section 107a, and whose engagement has been approved in writing by or on behalf of the owner of the property, may record with the register of deeds for the county in which the property is located a notice of the subcontract in substantially the following form:

NOTICE OF PROFESSIONAL SERVICES SUBCONTRACT

Under a written subcontract dated _____ between _____, design professional, and _____, as sub-design professional, _____ is to furnish or has furnished professional services relating to the proposed or actual erection, alteration, repair, or removal of a structure on or other improvement to real property described as follows, which services are a portion of the services furnished or to be furnished by the design professional under a written original contract with _____, the owner:

Insert description of services rendered

The legal description of the real property is as follows:

Insert legal description

At the time of this notice, an account of the subcontract is as follows:

1. Estimated or agreed contract price: _____
2. Approved extra or additional services: _____
3. Payments received: _____

The regular mailing address of the subcontracting party recording this notice is as follows:

Insert address

(2) A person entitled to record a notice of contract under subsection (1) may record the notice at any time after the execution of the written subcontract regardless of whether the professional services under the written subcontract have been commenced or completed, and regardless of whether the construction, alteration, repair, or removal of the structure or the other improvement to which the professional services relate has been, or is ever, commenced or completed. However, the person shall not record the notice later than 90 days after the last day a design professional who is entitled to record a notice under this section or section 107a, or any person claiming by, through, or under the design professional, performed professional services for the project.

(3) A notice under this section is valid for 1 year after the date it is recorded. The person furnishing professional services under the written contract with a design professional may record a subsequent notice with respect to the written contract. All of the requirements of this section, including the time limitation of subsection (2), apply to a subsequent notice.

(4) If an actual physical improvement is made to the property after a notice is recorded under this section, the notice is only effective from the date of the first actual physical improvement.

(5) This section, or the recording of a notice under this section, does not affect the requirements of this act regarding the creation of a construction lien, including requirements of section 107, the steps necessary to claim a lien, or the manner of enforcing a lien.

History: Add. 2018, Act 367, Imd. Eff. Dec. 12, 2018.

570.1108 Improvements to real property; notice of commencement; form; recording; contents of notice; blank notice of furnishing; incorrect information in notice; providing copy of notice and blank notice of furnishing form to subcontractor, supplier, or laborer upon request; posting copy of notice; failure of owner, lessee, or designee to record, provide, or post required notice; failure of contractor or subcontractor to provide notice; section inapplicable to residential structure improvement.

Sec. 108. (1) Before the commencement of any improvements to real property, the owner or lessee contracting for the improvements shall record in the office of the register of deeds for each county in which the real property to be improved is located a notice of commencement, in the form set forth in this section. If all improvements relate to a single project only 1 notice of commencement need be recorded. A subsequent notice of commencement need not be recorded for an improvement to real property that currently has a notice of commencement recorded in the office of the register of deeds if the recorded notice of commencement

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contains the same information as the subsequent notice of commencement.

(2) A notice of commencement required under this section must contain the following information:

(a) The legal description of the real property on which the improvement is to be made. A description that conforms to section 212 or 255 of the land division act, 1967 PA 288, MCL 560.212 and 560.255, is a sufficient legal description.

(b) The name, address, and capacity of the owner or lessee of the real property contracting for the improvement.

(c) The name and address of the fee owner of the real property, if the person contracting for the improvement is a land contract vendee or lessee.

(d) The name and address of the owner's or lessee's designee.

(e) The name and address of the general contractor, if any.

(f) The following statement:

"To lien claimants and subsequent purchasers:

Take notice that work is about to commence on an improvement to the real property described in this instrument. A person that has a construction lien may preserve the lien by providing a notice of furnishing to the designee named above and the general contractor, if any, and by timely recording a claim of lien, in accordance with law.

A person that has a construction lien because of work performed on this improvement should refer to the name of the owner or lessee and the legal description that appears in this notice. A person that subsequently acquires an interest in the land described is not required to be named in a claim of lien.

A copy of this notice with an attached form for notice of furnishing may be obtained by making a written request by certified mail to the owner or lessee named above; the designee; or the person with whom you have contracted."

(g) The name and address of the person preparing the notice.

(h) An affidavit of the owner or lessee or the agent of the owner or lessee that verifies the notice.

(3) A copy of a notice of commencement required under this section must have a blank notice of furnishing as described in section 109 attached to it. The blank notice of furnishing must be easily detachable from the copy of the notice and need not be recorded.

(4) Incorrect information contained in a notice of commencement furnished by or for an owner or lessee does not affect adversely the rights of a lien claimant as against the property of the owner or lessee.

(5) An owner, lessee, or designee required to record a notice of commencement under this section, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer, shall provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the subcontractor, supplier, or laborer.

(6) A contractor who has been provided with a notice of commencement from an owner, lessee, or designee, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer who has a direct contract with the contractor, shall provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the subcontractor, supplier, or laborer.

(7) A subcontractor who has been provided with a notice of commencement from an owner, lessee, designee, contractor, or subcontractor, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer who has a direct contract with the subcontractor, shall provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the requesting subcontractor, supplier, or laborer.

(8) An owner, lessee, or designee required to record a notice of commencement under this section shall post and keep posted a copy of the notice of commencement in a conspicuous place on the real property described in the notice during the course of the improvement to the real property.

(9) An owner, lessee, or designee required to record a notice of commencement under this section shall provide a copy of the notice of commencement to the general contractor, if any. An owner, lessee, or designee that fails to provide the notice of commencement to the general contractor is liable to the general contractor for all actual expenses sustained by the general contractor in obtaining the information otherwise provided by the notice of commencement.

(10) Failure of an owner, lessee, or designee to record a notice of commencement as required by this section extends the time within which a subcontractor or supplier may provide a notice of furnishing, as described in section 109, until 20 days after the notice of commencement has been recorded.

(11) Failure of an owner, lessee, or designee to provide, on written request, a notice of commencement as required by this section extends the time within which a subcontractor or supplier may provide a notice of furnishing, as described in section 109, until 20 days after the notice of commencement actually has been furnished to the subcontractor or supplier.

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(12) Failure of an owner, lessee, or designee to record a notice of commencement as required by this section extends the time within which a laborer may provide a notice of furnishing, as described in section 109, until 30 days after the notice of commencement has been recorded, or until the time in which to provide the notice of furnishing in accordance with section 109 expires, whichever is later.

(13) Failure of an owner, lessee, or designee to provide a notice of commencement as required by this section extends the time within which a laborer may provide a notice of furnishing, as described in section 109, until 30 days after the notice of commencement has been provided, or until the time in which to provide the notice of furnishing in accordance with section 109 expires, whichever is later.

(14) An owner, lessee, or designee that fails to post or keep posted a copy of a notice of commencement as required by subsection (8) is liable to a subcontractor, supplier, or laborer who becomes a lien claimant for all actual expenses sustained by the lien claimant in obtaining the information otherwise provided by the posting.

(15) A contractor who has been provided with a notice of commencement from an owner, lessee, or designee, who fails to provide the notice of commencement on the request of a lien claimant who has a direct contract with the contractor for an improvement to the property is liable to the lien claimant for all actual expenses sustained by the lien claimant in obtaining the information otherwise provided by the notice of commencement.

(16) A subcontractor who has been provided with a notice of commencement from an owner, lessee, designee, contractor, or subcontractor who fails to provide the notice of commencement on the request of a subcontractor, supplier, or laborer who has a direct contract with the subcontractor is liable to the requesting subcontractor, supplier, or laborer for all actual expenses sustained by the subcontractor, supplier, or laborer in obtaining the information otherwise provided by the notice of commencement.

(17) If the owner, lessee, or designee fails to provide, record, and post the notice of commencement as provided in this act and if, after the first improvement, the contractor by certified mail makes a written request to the owner, lessee, or designee to provide, record, and post the notice of commencement and the owner, lessee, or designee fails within 10 days after receipt of the request to do so, the owner or lessee is barred from requiring the contractor to hold the owner or lessee harmless from the lien of a lien claimant to the extent the lien could have otherwise been avoided through proper payment had the request been complied with. If the contractor pays a valid lien claim at the direction of the owner, lessee, or designee after the owner, lessee, or designee has failed to comply with this section, the owner or lessee is liable to the contractor to the extent the lien could have otherwise been avoided through proper payment had the request been complied with. This subsection does not apply if the name of the lien claimant appears on a sworn statement provided to the contractor and the claim of the lien claimant could have been avoided had payment been made in accordance with the sworn statement.

(18) This section does not apply to an improvement to a residential structure.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982;—Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018.

570.1108a Improvement to residential structure; notice of commencement; contents of notice; blank notice of furnishing; incorrect information in notice; providing copy of notice and blank notice of furnishing to contractor, subcontractor, supplier, or laborer upon request; posting copy of notice; failure of owner, lessee, or designee to provide or post notice; failure of contractor or subcontractor to provide notice and name and address of owner or lessee; liability to lien claimant; section applicable to residential structure improvement.

Sec. 108a. (1) An owner or lessee who contracts for an improvement to a residential structure shall prepare and provide a notice of commencement to a contractor, subcontractor, supplier, or laborer who has made a written request for the notice as provided in this section.

(2) A notice of commencement required under this section must contain the following information:

(a) The legal description of the real property on which the improvement is to be made. A description that conforms to section 212 or 255 of the land division act, 1967 PA 288, MCL 560.212 and 560.255, is a sufficient legal description.

(b) The name, address, and capacity of the owner or lessee of the real property contracting for the improvement.

(c) The name and address of the fee owner of the real property, if the person contracting for the improvement is a land contract vendee or lessee.

(d) The name and address of the owner's or lessee's designee.

(e) The name and address of the general contractor, if any. The notice of commencement form must

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contain the following caption below the line for the general contractor's name and address: (the name of the person with whom you have contracted to provide substantially all the improvements to the property.)

(f) The following statement in boldface type on the front of the form:

WARNING TO HOMEOWNER

Michigan law requires that you do the following:

1. Complete and return this form to the person who asked for it within 10 days after the date of the postmark on the request.

2. If you do not complete and return this form within the 10 days you may have to pay the expenses incurred in getting the information.

3. If you do not live at the site of the improvement, you must post a copy of this form in a conspicuous place at that site.

You are not required to but should do the following:

1. Complete and post a copy of this form at the place where the improvement is being made, even if you live there.

2. Make and keep a copy of this form for your own records.

(g) The following statement:

"To lien claimants and subsequent purchasers:

Take notice that work is about to commence on an improvement to the real property described in this instrument. A person that has a construction lien may preserve the lien by providing a notice of furnishing to the designee named above and the general contractor, if any, and by timely recording a claim of lien, in accordance with law.

A person that has a construction lien because of work performed on this improvement should refer to the name of the owner or lessee and the legal description in this notice. A person that subsequently acquires an interest in the land described is not required to be named in a claim of lien.

A copy of this notice with an attached form for notice of furnishing may be obtained on making a written request by certified mail to the owner or lessee named above; the designee; or the person with whom you have contracted."

(h) The name and address of the person preparing the notice.

(i) An affidavit of the owner or lessee or the agent of the owner or lessee that verifies the notice.

(3) A copy of a notice of commencement required under this section must have a blank notice of furnishing as described in section 109 attached to it. The blank notice of furnishing must be easily detachable from the copy of the notice and need not be recorded.

(4) Incorrect information contained in a notice of commencement furnished by or for an owner or lessee under this section does not affect adversely the rights of a lien claimant as against the property of the owner or lessee.

(5) An owner, lessee, or designee required to provide a notice of commencement under this section, within 10 days after the date of mailing of a written request by certified mail from a contractor, subcontractor, supplier, or laborer, shall prepare and provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the contractor, subcontractor, supplier, or laborer. A contractor, subcontractor, supplier, or laborer who requests a notice of commencement from an owner or lessee of a residential structure shall supply a blank notice of commencement form with the attached blank notice of furnishing to the owner or lessee at the time the request is made.

(6) A contractor who has been provided with a notice of commencement under this section from the owner, lessee, or designee, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer who has a direct contract with the contractor, shall provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the subcontractor, supplier, or laborer. If the contractor has not been provided a notice of commencement, the contractor shall provide the subcontractor, supplier, or laborer the name and address of the owner or lessee.

(7) A subcontractor who has been provided with a notice of commencement under this section from the owner, lessee, designee, or contractor, or another subcontractor, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer who has a direct contract with the subcontractor, shall provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the requesting subcontractor, supplier, or laborer. If the subcontractor has not been provided a notice of commencement, the subcontractor shall provide to the requesting subcontractor, supplier, or laborer, the name and address of the owner or lessee.

(8) If an owner, lessee, or designee has received a blank notice of commencement form under subsection (5) and if the owner or lessee does not currently reside at the real property described in the notice of commencement, the owner, lessee, or designee shall post a copy of the notice of commencement in a

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conspicuous place on the real property during the course of the improvement to the real property.

(9) Failure of an owner, lessee, or designee to provide, on written request, a notice of commencement as required by this section extends the time within which a subcontractor or supplier may provide a notice of furnishing, as described in section 109, until 20 days after the notice of commencement actually has been furnished to the subcontractor or laborer.

(10) Failure of an owner, lessee, or designee to provide a notice of commencement as required by this section extends the time within which a laborer may provide a notice of furnishing, as described in section 109, until 30 days after the notice of commencement actually has been furnished to the laborer, or until the time in which to provide the notice of furnishing in accordance with section 109 expires, whichever is later.

(11) An owner, lessee, or designee that fails to post or keep posted a copy of a notice of commencement as required by subsection (8) is liable to a subcontractor, supplier, or laborer who becomes a lien claimant for all actual expenses sustained by the lien claimant in obtaining the information otherwise provided by the posting.

(12) A contractor that has been provided with a notice of commencement from the owner, lessee, or designee and that fails to provide the notice of commencement on the request of a lien claimant that has a contract with the contractor for an improvement to the property is liable to the lien claimant for all actual expenses sustained by the lien claimant in obtaining the information otherwise provided by the notice of commencement. A contractor that fails to provide the name and address of the owner or lessee as required by subsection (6) is liable to the lien claimant for all actual expenses sustained by the lien claimant in obtaining the name and address of the owner or lessee.

(13) A subcontractor that has been provided with a notice of commencement from the owner, lessee, designee, contractor, or subcontractor and that fails to provide the notice of commencement on the request of a subcontractor, supplier, or laborer who has a direct contract with the subcontractor is liable to the subcontractor, supplier, or laborer for all actual expenses sustained by the subcontractor, supplier, or laborer in obtaining the information otherwise provided by the notice of commencement. A subcontractor that fails to provide the name and address of the owner or lessee as required by subsection (7) is liable to the lien claimant for all actual expenses sustained by the lien claimant in obtaining the name and address of the owner or lessee.

(14) This section only applies to an improvement to a residential structure.

History: Add. 1982, Act 17, Eff. Mar. 1, 1982;—Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018.

570.1109 Subcontractor, supplier, or laborer contracting to provide improvement to real property; service of notice of furnishing; form of notice; effect of failure by lien claimant to provide notice within time specified; failure of laborer to provide notice of furnishing; authorization of agent by laborers to prepare and serve notice.

Sec. 109. (1) Except as otherwise provided in sections 108 and 108a, a subcontractor or supplier that contracts to provide an improvement to real property shall provide a notice of furnishing to the designee and the general contractor, if any, as named in the notice of commencement at the address shown in the notice of commencement, either personally or by certified mail, within 20 days after furnishing the first labor or material. If a designee has not been named in the notice of commencement, or if the designee has died, service must be made on the owner or lessee named in the notice of commencement. If service of the notice of furnishing is made by certified mail, service is complete on mailing. A contractor is not required to provide a notice of furnishing to preserve lien rights arising from his or her contract directly with an owner or lessee.

(2) Except as otherwise provided in sections 108 and 108a, a laborer who contracts to provide an improvement to real property shall provide a notice of furnishing to the designee and the general contractor, if any, as named in the notice of commencement at the address shown in the notice of commencement, either personally or by mail, within 30 days after wages were contractually due but were not paid. If a designee has not been named in the notice of commencement, or if the designee has died, service must be made on the owner or lessee named in the notice of commencement. If service of the notice of furnishing is made by mail, service is complete on mailing by first class mail with postage prepaid.

(3) Except as otherwise provided in sections 108 and 108a, a laborer who provides an improvement to real property shall provide a notice of furnishing to the designee and the general contractor, if any, named in the notice of commencement at the address shown in the notice of commencement, either personally or by certified mail, by the fifth day of the second month following the month in which fringe benefits or withholdings from wages were contractually due but were not paid. If a designee has not been named in the notice of commencement, or if the designee has died, service must be made on the owner or lessee named in the notice of commencement. If service of the notice of furnishing is made by certified mail, service is complete on mailing.

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(4) A notice of furnishing, if not given on the form attached to the notice of commencement, must be in substantially the following form:

NOTICE OF FURNISHING

To: .....
(name of designee (or owner or lessee) from notice of commencement)
.....
(address from notice of commencement)
Please take notice that the undersigned is furnishing to .....
.....
(name and address of other contracting party)
certain labor or material for .....,
(describe type of work)
in connection with the improvements to the real property described
in the notice of commencement recorded in liber ....., on
page ....., ... records,
(name of county)
.....
or (a copy of which is attached to this notice)
WARNING TO OWNER: THIS NOTICE IS REQUIRED BY THE MICHIGAN CONSTRUCTION LIEN ACT. IF YOU HAVE QUESTIONS ABOUT YOUR RIGHTS AND DUTIES UNDER THIS ACT, YOU SHOULD CONTACT AN ATTORNEY TO PROTECT YOU FROM THE POSSIBILITY OF PAYING TWICE FOR THE IMPROVEMENTS TO YOUR PROPERTY.

.....
(name and address of lien claimant)
by .....
(name and capacity of party signing for lien claimant)
.....
(address of party signing)

Date:..... .

(5) The failure of a lien claimant to provide a notice of furnishing within the time specified in this section does not defeat the lien claimant's right to a construction lien for work performed or materials furnished by the lien claimant after the service of the notice of furnishing.

(6) The failure of a lien claimant to provide a notice of furnishing within the time specified in this section does not defeat the lien claimant's right to a construction lien for work performed or materials furnished by the lien claimant before the service of the notice of furnishing except to the extent that payments were made by or on behalf of the owner or lessee to the contractor pursuant to either a contractor's sworn statement or a waiver of lien in accordance with this act for work performed or material delivered by the lien claimant. This subsection does not apply to a laborer.

(7) The failure of a laborer to provide a notice of furnishing to the designee as required by subsection (2) defeats the laborer's lien for the wages for which the notice of furnishing is required.

(8) The failure of a laborer to provide a notice of furnishing to the designee as required by subsection (3) defeats the laborer's lien for the fringe benefits and withholdings for which the notice of furnishing is required.

(9) The failure of a laborer to provide a notice of furnishing to the general contractor within the time specified in subsection (2) or (3) does not defeat the laborer's right to a construction lien, but the laborer is liable for any actual damages sustained by the general contractor as a result of the failure.

(10) One or more laborers may authorize an agent to prepare and serve a notice of furnishing in the manner provided in this section. Notice of furnishing under this section may contain the notice of furnishing of more than 1 laborer and must contain the information required by subsection (4) as to each laborer for whom it is prepared. A court shall consider the notice of furnishing of each lien claimant under this subsection on its own merits.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982;—Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018.

570.1110 Sworn statement by contractor or subcontractor; contents; form; notice of receipt;

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withholding from contractor or subcontractor amount due subcontractors, suppliers, laborers, or lien claimants; direct payments to lien claimants; notice; itemized statement; reliance on sworn statement to avoid claim; failure of contractor or subcontractor to provide sworn statement to owner or lessee prior to recording claim of lien; giving false sworn statement to owner or lessee as crime; total amount; prior convictions; prohibited use.

Sec. 110. (1) A contractor shall provide a sworn statement to the owner or lessee in each of the following circumstances:

(a) When payment is due to the contractor from the owner or lessee or when the contractor requests payment from the owner or lessee.

(b) When a demand for the sworn statement has been made by or on behalf of the owner or lessee.

(2) A subcontractor shall provide a sworn statement to the owner or lessee when a demand for the sworn statement has been made by or on behalf of the owner or lessee and, if applicable, the owner or lessee has complied with the requirements of subsection (6).

(3) A subcontractor shall provide a sworn statement to the contractor when payment is due to the subcontractor from the contractor or when the subcontractor requests payment from the contractor.

(4) A sworn statement shall list each subcontractor and supplier with whom the person issuing the sworn statement has contracted relative to the improvement to the real property. The sworn statement shall contain a list of laborers with whom the person issuing the sworn statement has contracted relative to the improvement to the real property and for whom payment for wages or fringe benefits and withholdings are due but unpaid and the itemized amount of such wages or fringe benefits and withholdings. The sworn statement shall be in substantially the following form:

SWORN STATEMENT

State of Michigan)
) ss.
County of .....)

.....(deponent), being sworn, states the following:

..... is the (contractor) (subcontractor) for an improvement to the following real property in ..... County, Michigan, described as follows:

.....

(insert legal description of property)

The following is a statement of each subcontractor and supplier, and laborer for whom payment of wages or fringe benefits and withholdings is due but unpaid, with whom the (contractor) (subcontractor) has (contracted) (subcontracted) for performance under the contract with the owner or lessee of the property, and the amounts due to the persons as of the date of this statement are correctly and fully set forth opposite their names:

Name, address, and tele-phone number of subcon-trac-tor, sup-plier, or laborer	Type of improve-ment fur-nished	Total con-tract price	Amount already paid	Amount cur-rently owing	Balance to com-plete (op-tional)	Amount of laborer wages due but unpaid	Amount of laborer fringe benefits and with-holdings due but unpaid
.....							
Totals							

(Some columns are not applicable to all persons listed)

The contractor has not procured material from, or subcontracted with, any person other than those set forth and owes no money for the improvement other than the sums set forth.

I make this statement as the (contractor) (subcontractor) or as ..... of the (contractor) (subcontractor) to represent to the owner or lessee of the property and his or her agents that the property is free from claims of construction liens, or the possibility of construction liens, except as specifically set forth in this statement and except for claims of construction liens by laborers that may be provided under section 109 of the construction lien act, 1980 PA 497, MCL 570.1109.

WARNING TO OWNER OR LESSEE: AN OWNER OR LESSEE OF THE PROPERTY SHALL NOT RELY ON THIS SWORN STATEMENT TO AVOID THE CLAIM OF A SUBCONTRACTOR, SUPPLIER, OR LABORER WHO HAS PROVIDED A NOTICE OF FURNISHING OR A LABORER WHO MAY PROVIDE A NOTICE OF FURNISHING UNDER SECTION 109 OF THE CONSTRUCTION LIEN ACT, 1980 PA 497, MCL 570.1109, TO THE DESIGNEE OR TO THE OWNER OR LESSEE IF

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THE DESIGNEE IS NOT NAMED OR HAS DIED.

IF THIS SWORN STATEMENT IS IN REGARD TO A RESIDENTIAL STRUCTURE, ON RECEIPT OF THE SWORN STATEMENT, THE OWNER OR LESSEE, OR THE OWNER'S OR LESSEE'S DESIGNEE, MUST GIVE NOTICE OF ITS RECEIPT, EITHER IN WRITING, BY TELEPHONE, OR PERSONALLY, TO EACH SUBCONTRACTOR, SUPPLIER, AND LABORER WHO HAS PROVIDED A NOTICE OF FURNISHING UNDER SECTION 109 OR, IF A NOTICE OF FURNISHING IS EXCUSED UNDER SECTION 108 OR 108A, TO EACH SUBCONTRACTOR, SUPPLIER, AND LABORER NAMED IN THE SWORN STATEMENT. IF A SUBCONTRACTOR, SUPPLIER, OR LABORER WHO IS ENTITLED TO NOTICE OF RECEIPT OF THE SWORN STATEMENT MAKES A REQUEST, THE OWNER, LESSEE, OR DESIGNEE SHALL PROVIDE THE REQUESTER A COPY OF THE SWORN STATEMENT WITHIN 10 BUSINESS DAYS AFTER RECEIVING THE REQUEST.

.....

Deponent

WARNING TO DEPONENT: A PERSON WHO GIVES A FALSE SWORN STATEMENT WITH INTENT TO DEFRAUD IS SUBJECT TO CRIMINAL PENALTIES AS PROVIDED IN SECTION 110 OF THE CONSTRUCTION LIEN ACT, 1980 PA 497, MCL 570.1110.

Subscribed and sworn to before me on .....(DATE)

.....

Notary Public,..... County, Michigan.

My commission expires: ..... .

(5) The contractor or subcontractor is not required to list in the sworn statement material furnished by the contractor or subcontractor out of his or her own inventory that was not purchased specifically for performing the contract.

(6) On receipt of a sworn statement regarding an improvement to a residential structure, the owner, lessee, or designee shall give notice of its receipt, either in writing, by telephone, or personally, to each subcontractor, supplier, and laborer who has provided a notice of furnishing under section 109 or, if a notice of furnishing is excused under section 108 or 108a, to each subcontractor, supplier, and laborer named in the sworn statement. If a subcontractor, supplier, or laborer entitled to notice under this subsection requests a copy of the sworn statement, the owner, lessee, or designee shall provide the requester a copy within 10 business days after receiving the request.

(7) After the contractor or subcontractor provides the sworn statement, the owner or lessee may withhold or, upon written demand from the contractor, shall withhold from the amount due or to become due to the contractor or to the subcontractor for work already performed an amount sufficient to pay all sums due to subcontractors, suppliers, or laborers, as shown by the sworn statement, or due to lien claimants who have provided a notice of furnishing under section 109. From the amount withheld, the owner or lessee may directly pay subcontractors, suppliers, or laborers the amount they are due as shown by the sworn statement. If the contract provides for payments by the owner to the general contractor in the normal course of construction, but the owner elects to pay lien claimants directly under this section, the first time the owner elects to make payment directly to a lien claimant, he or she shall provide at least 5 business days' notice to the general contractor of the intention to make direct payment. Subsequent direct disbursements to lien claimants need not be preceded by the 5-day notice provided in this section unless the owner first returns to the practice of paying all sums to the general contractor. As between the owner or lessee and the contractor or subcontractor, all payments made under this subsection are considered the same as if paid directly to the contractor or subcontractor. If an amount is withheld under this subsection from the contractor or subcontractor, the owner or lessee, upon request, shall prepare and provide to the contractor or subcontractor an itemized statement of the sums withheld. If an amount is paid directly to a lien claimant under this section, the owner or lessee shall, if requested by the contractor or subcontractor, provide to the contractor or subcontractor an itemized statement of the sums paid.

(8) An owner, lessee, designee, mortgagee, or contractor may rely on a sworn statement prepared by a party other than himself or herself to avoid the claim of a subcontractor, supplier, or laborer unless the subcontractor, supplier, or laborer has provided a notice of furnishing as required under section 109 or unless the notice of furnishing is excused under section 108 or 108a.

(9) If a contractor fails to provide a sworn statement to the owner or lessee before recording the contractor's claim of lien, the contractor's construction lien is not invalid. However, the contractor is not entitled to any payment, and a complaint, cross-claim, or counterclaim may not be filed to enforce the construction lien, until the sworn statement has been provided.

(10) If a subcontractor fails to provide a sworn statement under subsection (2) to the owner or lessee before

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recording the subcontractor's claim of lien, the subcontractor's construction lien is valid. However, a complaint, cross-claim, or counterclaim may not be filed to enforce the construction lien until the sworn statement has been provided.

(11) A contractor or subcontractor who desires to draw money and gives or causes to be given to any owner or lessee a sworn statement required by this section that is false, with intent to defraud, is guilty of a crime as follows:

(a) If the statement involved is for less than $200.00, the contractor or subcontractor is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or 3 times the statement amount, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the contractor or subcontractor is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the statement amount, whichever is greater, or both imprisonment and a fine:

(*i*) The statement involved is for $200.00 or more but less than $1,000.00.

(*ii*) The statement involved is for less than $200.00 and the contractor or subcontractor has 1 or more prior convictions for committing or attempting to commit an offense under this act.

(c) If any of the following apply, the contractor or subcontractor is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the statement amount, whichever is greater, or both imprisonment and a fine:

(*i*) The statement involved is for $1,000.00 or more but less than $20,000.00.

(*ii*) The statement involved is for more than $200.00 but less than $1,000.00 and the contractor or subcontractor has 1 or more prior convictions for violating or attempting to violate this act. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation described in subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the contractor or subcontractor is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the statement amount, whichever is greater, or both imprisonment and a fine:

(*i*) The statement involved is for $20,000.00 or more.

(*ii*) The statement involved is for $1,000.00 or more but less than $20,000.00 and the contractor or subcontractor has 2 or more prior convictions for committing or attempting to commit an offense under this act. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation described in subdivision (a) or (b)(*ii*).

(12) For purposes of subsection (11), statements involved in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total amount involved in the statements.

(13) If the prosecuting attorney intends to seek an enhanced sentence for a violation under this section based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include in the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(14) If the sentence for a conviction under this section is enhanced by 1 or more convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982;—Am. 2001, Act 151, Eff. Jan. 1, 2002;—Am. 2006, Act 572, Imd. Eff. Jan. 3, 2007;—Am. 2007, Act 28, Imd. Eff. June 28, 2007.

570.1111 Claim of lien; recording; validity; form; assignment; statement; proof of service of notice of furnishing; serving copy of claim of lien and recorded proof of service on designee, owner, or lessee; claim of lien of more than 1 laborer; consideration by court.

Sec. 111. (1) Notwithstanding section 109, the right of a contractor, subcontractor, laborer, or supplier to a construction lien created by this act shall cease to exist unless, within 90 days after the lien claimant's last furnishing of labor or material for the improvement, pursuant to the lien claimant's contract, a claim of lien is recorded in the office of the register of deeds for each county where the real property to which the improvement was made is located. A claim of lien shall be valid only as to the real property described in the

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claim of lien and located within the county where the claim of lien has been recorded.

(2) A claim of lien shall be in substantially the following form:

CLAIM OF LIEN

Notice is hereby given that on the ..... day of ....., 19 .....,

(name)

(address)

first provided labor or material for an improvement to

.....,

(legal description of real property from notice of comencement)

the (owner) (lessee) of which property is ..... .

(name of owner or lessee from notice of commencement)

The last day of providing the labor or material was the ..... day of ....., 19 ..... .

TO BE COMPLETED BY A LIEN CLAIMANT WHO IS A CONTRACTOR, SUBCONTRACTOR, OR SUPPLIER:

The lien claimant's contract amount, including extras, is $..... . The lien claimant has received payment thereon in the total amount of $..... , and therefor claims a construction lien upon the above-described real property in the amount of $ ..... .

TO BE COMPLETED BY A LIEN CLAIMANT WHO IS A LABORER:

The lien claimant's hourly rate, including fringe benefits and withholdings, is $..... . There is due and owing to or on behalf of the laborer the sum of $ ..... for which the laborer claims a construction lien upon the above-described real property.

(lien claimant)

by

(signature of lien claimant, agent, or attorney)

(address of party signing claim of lien)

Date:..... .

State of Michigan)
) ss.
County of .....)

Subscribed and sworn to before me this ..... day of ..... , 19 ..... .

Signature of Notary Public

My commission expires:

Prepared by:

(name and address of party)

(3) If the claim of lien has been assigned, the claim of lien shall state: "The construction lien having been assigned, this claim of lien is made by ..... as assignee thereof".

(4) A claim of lien by a subcontractor, supplier, or laborer shall have attached to it a proof of service of a notice of furnishing described in section 109.

(5) Each contractor, subcontractor, supplier, laborer, or agent of a group of laborers authorized under subsection (6) recording a claim of lien, within 15 days after the date of the recording, shall serve on the designee personally or by certified mail, return receipt requested, at the address shown on the notice of commencement, a copy of the claim of lien and a copy of any proof of service recorded in connection with the claim of lien. If a designee has not been named in the notice of commencement, or if the designee has died, service shall be made upon the owner or lessee named in the notice of commencement. If the service is made by certified mail, service is complete upon mailing. Proof of making the service shall be attached to any complaint, cross-claim, or counterclaim filed to enforce a construction lien.

(6) One or more laborers may authorize an agent to prepare, record, and serve a claim of lien in the manner provided in this section. A claim of lien under this section may contain the claim of lien of more than 1 laborer and shall contain the information required in subsection (2) as to each laborer for whom it is prepared.

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The claim of lien of each lien claimant under this subsection shall be considered by the court on its own merits.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982.

570.1112 Endorsing and indexing instrument by register of deeds; recording fee; constructive notice.

Sec. 112. (1) If a notice of professional services contract, notice of professional services subcontract, notice of commencement, claim of lien, certificate of discharge of lien, or a certificate of a county clerk that no proceedings to enforce a construction lien have been commenced within the period provided by law is recorded in the office of a register of deeds, the register shall endorse on the instrument the date of its recording and properly index the instrument.

(2) The fee for recording an instrument described in subsection (1) is the same as the fee for recording a real estate mortgage under section 2567 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567.

(3) The recording of a notice of professional services contract, notice of professional services subcontract, notice of commencement, or claim of lien operates as constructive notice to subsequent purchasers or encumbrancers in the same manner as the recording of a real estate mortgage.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018.

570.1113 Making available to lien claimant copy of contract and statement of amount due and unpaid; liability of owner or lessee; providing to owner, lessee, or designee statement of labor and material furnished; liability of lien claimant failing to provide statement; honoring request for payment by lien claimant.

Sec. 113. (1) An owner or lessee who contracts for an improvement, upon receipt of a written demand by a lien claimant, shall make available for inspection and copying to the lien claimant, within 10 days after receipt of the written demand, a copy of the contract for the improvement between the owner or lessee and the contractor, and a written statement of the amount due and unpaid on that date on the contract. Any owner or lessee who fails to make available for inspection and copying a copy of the contract and the written statement of the amount due and unpaid, within 10 days after receipt of a written demand, shall be liable to the lien claimant for all actual damages sustained by the lien claimant due to the failure.

(2) Each lien claimant, upon receipt of a written demand by an owner, lessee, designee, or contractor, shall provide to the owner, lessee, designee, or contractor, within 10 days after receipt of the written demand, a written statement of the amount of labor and material furnished to the date of the statement in connection with the improvement for which a construction lien is claimed, any amount remaining due for the labor and material furnished, and the contractual amount of any work remaining to be performed. A lien claimant who fails to provide a statement within 10 days after receipt of a written demand shall be liable to the owner, lessee, or contractor for actual damages sustained by the owner, lessee, or contractor due to the failure. In addition, the owner, lessee, or contractor, after the expiration of the 10-day period without receipt of the requested statement, shall not be required to honor a request for payment by the lien claimant until the statement has been received by the person who requested it.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982.

570.1114 Construction lien on interest of owner or lessee in residential structure; providing improvement under written contract required; statement; contents.

Sec. 114. A contractor does not have a right to a construction lien on the interest of an owner or lessee in a residential structure unless the contractor has provided an improvement to the residential structure under a written contract between the owner or lessee and the contractor and any amendments or additions to the contract are also in writing. The contract required under this section shall contain a statement, in type no smaller than that of the body of the contract, stating all of the following:

(a) That a residential builder or a residential maintenance and alteration contractor is required to be licensed under article 24 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2412. That an electrician is required to be licensed under article 7 of the skilled trades regulation act, MCL 339.5701 to 339.5739. That a plumbing contractor is required to be licensed under article 11 of the skilled trades regulation act, MCL 339.6101 to 339.6133. That a mechanical contractor is required to be licensed under article 8 of the skilled trades regulation act, MCL 339.5801 to 339.5819.

(b) If the contractor is required to be licensed to provide the contracted improvement, that the contractor is licensed and the contractor's license number.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982;—Am.

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2006, Act 497, Eff. Jan. 3, 2007;—Am. 2016, Act 415, Eff. Apr. 4, 2017.

570.1114a Construction lien recorded by unlicensed person.

Sec. 114a. (1) The owner of residential property on which a construction lien has been recorded by a person who was not licensed as described in section 114, or any person affected by the lien, may bring an action to discharge the lien.

(2) If the court in an action under subsection (1) determines that the person who recorded the lien was not licensed as required, the person is liable to the person who brought the action for all damages that result from the recording and any attempts to enforce the lien, including actual costs and attorney fees.

(3) A person who brings an action to recover for the performance of an act or contract for which a license is required as described in section 114 shall allege in the complaint and has the burden of proving that he or she was properly licensed.

History: Add. 2006, Act 497, Eff. Jan. 3, 2007.

570.1115 Waiver of construction lien.

Sec. 115. (1) A person shall not require, as part of any contract for an improvement, that the right to a construction lien be waived in advance of work performed. A waiver obtained as part of a contract for an improvement is contrary to public policy, and shall be invalid, except to the extent that payment for labor and material furnished was actually made to the person giving the waiver. Acceptance by a lien claimant of a promissory note or other evidence of indebtedness from an owner, lessee, or contractor shall not of itself serve to waive or discharge otherwise valid construction lien rights.

(2) A lien claimant who receives full payment for his or her contract shall provide to the owner, lessee, or designee a full unconditional waiver of lien.

(3) A lien claimant who receives partial payment for his or her contract shall provide to the owner, lessee, or designee a partial unconditional waiver of the lien for the amount which the lien claimant has received, if the owner, lessee, or designee requests the partial unconditional waiver.

(4) A partial conditional waiver of lien or a full conditional waiver of lien shall be effective upon payment of the amount indicated in the waiver.

(5) For purposes of this act, retainage that is not payable under a contract until the happening of a certain event in addition to the providing of an improvement is not due as of the date of the providing of the improvement.

(6) A waiver of a lien under this section shall be effective when a person makes payment relying on the waiver unless at the time payment was made the person making the payment has written notice that the consideration for the waiver has failed.

(7) Subject to subsection (8), if the improvement is provided to property that is a residential structure, an owner, lessee, or designee shall not rely on a full or partial unconditional or conditional waiver of lien provided by a person other than the lien claimant named in the waiver if the lien claimant has either filed a notice of furnishing under section 109 or is excused from filing a notice of furnishing under section 108 or 108a unless the owner, lessee, or designee has first verified the authenticity of the lien waiver with the lien claimant either in writing, by telephone, or personally.

(8) An agent who is authorized to prepare and serve a notice of furnishing or to prepare, record, and serve a claim of lien on behalf of a laborer or group of laborers is automatically authorized to provide and responsible for providing waivers of lien, unless or until the laborer or group of laborers notifies the designee in writing that someone other than the agent is authorized to provide appropriate waivers. An individual laborer may also provide waivers under this section instead of the agent.

(9) The following forms shall be used in substantially the following format to execute waivers of construction liens:

(a)**PARTIAL UNCONDITIONAL WAIVER**

I/we have a contract with ..... to
(other contracting party)
provide ..... for the improvement to the property described as ..... , and by signing this waiver waive my/our construction lien to the amount of $..... , for labor/materials provided through ..... .
(date)

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This waiver, together with all previous waivers, if any, (circle one) does does not cover all amounts due to me/us for contract improvement provided through the date shown above. If the improvement is provided to property that is a residential structure and if the owner or lessee of the property or the owner's or lessee's designee has received a notice of furnishing from me/one of us or if I/we are not required to provide one, and the owner, lessee, or designee has not received this waiver directly from me/one of us, the owner, lessee, or designee may not rely upon it without contacting me/one of us, either in writing, by telephone, or personally, to verify that it is authentic.

.....

.....

(signature of lien claimant)

Signed on: ..... Address:.....

(date)

.....

Telephone:.....

DO NOT SIGN BLANK OR INCOMPLETE FORMS. RETAIN A COPY.

(b)**PARTIAL CONDITIONAL WAIVER**

I/we have a contract with ..... to

(other contracting party)

provide ..... for the improvement to the property described as:..... , and by signing this waiver waive my/our construction lien to the amount of $ ..... , for labor/materials provided through..... .

(date)

This waiver, together with all previous waivers, if any, (circle one) does does not cover all amounts due to me/us for contract improvement provided through the date shown above. This waiver is conditioned on actual payment of the amount shown above.

If the improvement is provided to property that is a residential structure and if the owner or lessee of the property or the owner's or lessee's designee has received a notice of furnishing from me/one of us or if I/we are not required to provide one, and the owner, lessee, or designee has not received this waiver directly from me/one of us, the owner, lessee, or designee may not rely upon it without contacting me/one of us, either in writing, by telephone, or personally, to verify that it is authentic.

.....

.....

(signature of lien claimant)

Signed on: ..... Address:.....

(date)

.....

Telephone:.....

DO NOT SIGN BLANK OR INCOMPLETE FORMS. RETAIN A COPY.

(c)**FULL UNCONDITIONAL WAIVER**

My/our contract with ..... to

(other contracting party)

provide ..... for the improvement of the property described as:..... has been fully paid and satisfied. By signing this waiver, all my/our construction lien rights against the described property are waived and released.

If the improvement is provided to property that is a residential structure and if the owner or lessee of the property or the owner's or lessee's designee has received a notice of furnishing from me/one of us or if I/we are not required to provide one, and the owner, lessee, or designee has not received this waiver directly from me/one of us, the owner, lessee, or designee may not rely upon it without contacting me/one of us, either in writing, by telephone, or personally, to verify that it is authentic.

.....

.....

(signature of lien claimant)

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Signed on: ..... Address:.....
(date)

.....

Telephone:.....

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(d)**FULL CONDITIONAL WAIVER**

My/our contract with ..... to
(other contracting party)

provide ..... for the improvement of the property described as:..... has been fully paid and satisfied. By signing this waiver, all my/our construction lien rights against the described property are waived and released.

This waiver is conditioned on actual payment of ..... . If the improvement is provided to property that is a residential structure and if the owner or lessee of the property or the owner's or lessee's designee has received a notice of furnishing from me/one of us or if I/we are not required to provide one, and the owner, lessee, or designee has not received this waiver directly from me/one of us, the owner, lessee, or designee may not rely upon it without contacting me/one of us, either in writing, by telephone, or personally, to verify that it is authentic.

.....

.....

(signature of lien claimant)

Signed on: ..... Address:.....
(date)

.....

Telephone:.....

DO NOT SIGN BLANK OR INCOMPLETE FORMS. RETAIN A COPY.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982;—Am. 2006, Act 572, Imd. Eff. Jan. 3, 2007;—Am. 2007, Act 28, Imd. Eff. June 28, 2007.

570.1116 Claim of lien; vacation and discharge; bond; penal sum; filing; notification of lien claimant; objection to sufficiency of surety; appearance by surety; approval of bond; certificate; recordation; discharge of claim of lien and notice of lis pendens; action by obligee; court order or other relief.

Sec. 116. (1) The claim of lien of a contractor, subcontractor, supplier, or laborer may at any time be vacated and discharged if a bond, with the lien claimant as obligee, is filed with the county clerk for the county in which the property covered by the lien is located and a copy is given to the obligee lien claimant. The bond shall be in the penal sum of twice the amount for which the lien is claimed and shall be conditioned on the payment of any sum for which the obligee in the bond may obtain judgment on the claim for which the claim of lien was filed. The bond may be either a cash bond executed by a principal, or a surety bond executed by a principal and a surety company authorized to do business in this state.

(2) Within 10 days after receiving the bond, the county clerk shall notify each lien claimant that a bond has been filed and indicate the amount of the bond and the name of the surety on the bond. The lien claimants shall have 10 days after being notified of the bond within which to file an objection to the sufficiency of the surety on the bond, in which case the county clerk shall not approve the bond until the surety has appeared before the county clerk and answered under oath those questions asked by or on behalf of the lien claimant touching on the surety's financial responsibility. If an objection to the surety is not filed within the 10 days after being notified of the bond or if the county clerk approves the bond after the questioning of the surety, the county clerk shall at once give to the principal and the obligee named in the bond a certificate that a good and sufficient bond has been filed in accordance with this act. The certificate shall state the names of the obligor and obligee, the amount of the bond, and the description of the property covered by the claim of lien being discharged. Upon the recording of the certificate in the office of the register of deeds where the claim of lien was recorded, the claim of lien of the obligee lien claimant named in the claim of lien shall be discharged. If because of the pendency of proceedings to enforce the claim of lien, a notice of lis pendens has been recorded, the recording of the certificate shall also operate as a discharge of the notice of lis pendens. The obligee may

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make any obligor on the bond a party to an action to enforce a claim under the bond, and a judgment may be recovered in the action against all or any of the obligors.

(3) In an action brought in connection with the claim of the obligee, the court may do 1 or more of the following:

(a) Order the amount of the bond to be reduced.

(b) Order other or additional surety to be provided.

(c) Grant any other relief the court considers to be equitable.

History: 1980, Act 497, Eff. Jan. 1, 1982.

570.1117 Action for enforcement of construction lien through foreclosure; notice of lis pendens; agent appointed to represent laborers; parties; action on contract by lien claimant; enforcement of lien by cross-claim or counterclaim where lien claimant party; sworn statement.

Sec. 117. (1) Proceedings for the enforcement of a construction lien and the foreclosure of any interests subject to the construction lien shall not be brought later than 1 year after the date the claim of lien was recorded.

(2) At the time of commencing an action for the enforcement of a construction lien through foreclosure, the plaintiff shall record a notice of lis pendens with respect to the action in the office of the register of deeds for the county in which the real property involved in the action is located.

(3) As provided in section 111(6), an action to foreclose on a construction lien may be maintained by an agent appointed to represent laborers.

(4) Each person who, at the time of filing the action, has an interest in the real property involved in the action which would be divested or otherwise impaired by the foreclosure of the lien, shall be made a party to the action.

(5) In connection with an action for foreclosure of a construction lien, the lien claimant also may maintain an action on any contract from which the lien arose.

(6) Except as otherwise provided in subsection (1), a lien claimant who has been made a party to an action for foreclosure of a construction lien may enforce his or her own construction lien in the action by a cross-claim or counterclaim, and the owner or lessee may timely join other or potential lien claimants in the action.

(7) In an action brought by a contractor or subcontractor to enforce a construction lien through foreclosure, the complaint, cross-claim, or counterclaim must show that the owner or lessee was provided a sworn statement, if a sworn statement was requested or required, pursuant to section 110.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982.

570.1118 Action to enforce construction lien through foreclosure; circuit court; equitable nature of action; enforcement of lien by cross-claim or counterclaim filed in pending action; duties of court; attorneys' fees.

Sec. 118. (1) An action to enforce a construction lien through foreclosure shall be brought in the circuit court for the county where the real property described in the claim of lien is located. If the real property is located in more than 1 county or judicial circuit, the action may be brought in any of the counties where the real property is located. An action to enforce a construction lien through foreclosure is equitable in nature. A construction lien also may be enforced by a cross-claim or counterclaim timely filed in a pending action involving title to, or foreclosure of mortgages or encumbrances on, real property.

(2) In an action to enforce a construction lien through foreclosure, the court shall examine each claim and defense that is presented and determine the amount, if any, due to each lien claimant or to any mortgagee or holder of an encumbrance and their respective priorities. The court may allow reasonable attorneys' fees to a lien claimant who is the prevailing party. The court also may allow reasonable attorneys' fees to a prevailing defendant if the court determines the lien claimant's action to enforce a construction lien under this section was vexatious.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982;—Am. 2010, Act 147, Imd. Eff. Aug. 23, 2010.

570.1118a Attachment of claim to residential structure; affidavit; rebuttable presumption of payment by owner or lessee to contractor.

Sec. 118a. (1) A claim of construction lien does not attach to a residential structure, to the extent payments have been made, if the owner or lessee files an affidavit with the court stating that the owner or lessee has paid the contractor for the improvement to the residential structure according to the contract, indicating in the affidavit the amount of the payment. The owner or lessee shall attach to the affidavit copies of the contract,

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any change orders, and any evidence of the payment that the owner or lessee has, including, but not limited to, a canceled check or a credit card or other receipt.

(2) If there is no written contract between the owner or lessee and the contractor as required by section 114, the filing of an affidavit under this section creates a rebuttable presumption that the owner or lessee has paid the contractor for the improvement. The presumption may be overcome only by a showing of clear and convincing evidence to the contrary.

History: Add. 2010, Act 147, Imd. Eff. Aug. 23, 2010.

570.1119 Claims of lien having equal priority; priority of construction lien over garnishments and over other interests, liens, or encumbrances; attachment; effect of recording; priority of recorded mortgage, lien, encumbrance, or other interest over construction lien; advances; retainage.

Sec. 119. (1) Except as otherwise provided by subsection (4), as between parties entitled to claim construction liens under this act, the liens have equal priority. This subsection applies and the construction liens have equal priority regardless of whether the lien arises at the time of the first actual physical improvement or at the time a notice is recorded under section 107a or 107b.

(2) A construction lien under this act has priority over all garnishments for the contract debt made after the lien arises, without regard to the date of recording of the claim of lien.

(3) A construction lien arising under this act has priority over all other interests, liens, or encumbrances that may attach to the building, structure, or improvement, or on the real property on which the building, structure, or improvement is erected, if the other interests, liens, or encumbrances are recorded after the construction lien arises.

(4) A mortgage, lien, encumbrance, or other interest recorded before the construction lien arises has priority over a construction lien arising under this act. The priority of the mortgage exists as to all obligations secured by the mortgage except for indebtedness arising out of advances made after the construction lien arises. An advance made pursuant to the mortgage, but after the construction lien arises, has priority over a construction lien if, for that advance, the mortgagee has received a contractor's sworn statement as provided in section 110, has made disbursements pursuant to the contractor's sworn statement, and has received waivers of lien from the contractor and all subcontractors, laborers, and suppliers who have provided notices of furnishing. The construction lien of a lien claimant not set forth on the sworn statement on which an advance was made is subordinate to the lien of the mortgage, including the advance, unless before the advance the lien claimant provided the designee with a notice of furnishing if required by section 109 or recorded a claim of lien. An advance made after a notice of furnishing has been provided or has been excused as provided in sections 108, 108a, and 109 or after a claim of lien has been recorded is subordinate to the construction lien of the lien claimant unless before the advance the mortgagee received from the lien claimant either a full unconditional waiver of lien or a partial unconditional waiver of lien for the full amount due the lien claimant as of the date through which the lien is waived as shown on the lien waiver and the date through which the lien is waived as shown on the partial unconditional waiver is within 30 days before the advance.

(5) For purposes of this section, retainage that is not payable under a contract until a certain event happens in addition to an improvement being provided, is not due as of the date the improvement is provided.

(6) For purposes of determining priorities under this section, a construction lien arises as follows:

(a) Except as provided in subdivision (b), at the time of the first actual physical improvement.

(b) As to a lien claimed by a person after the person has recorded a notice under section 107a or 107b, at the time a notice is recorded, subject to any applicable limitation under section 107a(4) or 107b(4).

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982;—Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018.

570.1120 Failure of owner or lessee to perform contract; compensation and additional damages.

Sec. 120. If a lien claimant, by reason of the failure of an owner or lessee to perform the contract, and without fault on the part of the lien claimant, has been prevented from completely performing the contract, the lien claimant shall be entitled to compensation for as much as was performed by the claimant under the contract, in proportion to the price stipulated for complete performance of the whole contract, less any payments made to the lien claimant and also to any additional damages which the lien claimant may be entitled to as a matter of law.

History: 1980, Act 497, Eff. Jan. 1, 1982.

570.1121 Judgment of foreclosure; sale of real property or improvement; satisfaction of lien

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from rents, profits, and income; adding tax and insurance premium payments; affidavit; redemption period; conduct of sale; right, title, and interest vested in grantee; final order; deficiency judgment; surplus; bringing sale proceeds into court; redemption.

Sec. 121. (1) If the court finds that a lien claimant is entitled to a construction lien upon the real property to which he or she furnished an improvement, and the amount adjudged to be due has not been paid, the court may enter a judgment ordering the sale of any interest in the real property, or a part of the real property, to which the construction lien attaches. If the construction lien attaches only to the improvement furnished, the court may order a sale of the improvement. If the court finds that there is an interest in or encumbrance against the real property which is superior to the construction lien being foreclosed, the order for sale shall indicate that fact. The court may order a construction lien satisfied out of the rents, profits, and income from the real property to which the construction lien has attached.

(2) In a judgment of foreclosure, the court may provide for adding to the amount determined to be due any amount paid by any lien claimant, mortgagee, or receiver appointed by the court, after the foreclosure sale and before the expiration of the period of redemption, for taxes assessed against the real property sold or for that portion of the premium of an insurance policy covering the building located on the real property, which premium portion is required to keep the policy in force until the expiration of the period of redemption. After the making of any tax or premium payments, an affidavit with respect to the payments shall be recorded immediately in the office of the register of deeds for the county in which the deed on foreclosure sale was recorded.

(3) In the order for the foreclosure sale, the court shall fix a period for redemption. The period of redemption shall not exceed 4 months. The sale shall be conducted in the same manner as a sale on execution. The sale shall become final, subject to the period of redemption, upon the entry of an order of confirmation by the court. Pursuant to section 119(3) and subject to subsection (1), the foreclosure, upon becoming final, shall vest in the grantee named in the deed all the right, title, and interest in the real property which the owner, co-owner, lessee, or co-lessee whose interest is being foreclosed had at the date of the execution of the contract or at any time thereafter.

(4) The court shall enter a final order directing the distribution of all of the funds obtained from the foreclosure sale in accordance with the priorities of the parties as determined by the court. The court shall adjudicate the rights, if any, of lien claimants to a deficiency judgment against any owner or lessee contracting for an improvement. After the making of all payments directed by the court, any surplus from the proceeds of the sale of property on the foreclosure of a construction lien under this act shall be paid over to the owner, co-owner, lessee, co-lessee, or such other person as may be entitled to the surplus. However, the surplus shall be subject to a subsequent judgment or execution under this act in the same manner as if the surplus was derived from a sale made under the subsequent execution.

(5) If all claims of lien are not ascertained when a sale is ordered, or if for any other reason it is deemed proper to postpone the order of distribution of the proceeds of a sale on foreclosure, the court may direct the party making the sale to bring the proceeds of the sale into court, to be disposed of according to order of the court.

(6) Redemption from a foreclosure sale is complete upon payment of all sums set forth in the judgment of foreclosure, together with any sums due for the payment of taxes or insurance premiums as provided in subsection (2). If there is not a redemption from the foreclosure sale, taxes and insurance premiums paid after the sale shall not be included in any deficiency judgment.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982.

570.1122 Appointing receiver in action to enforce construction lien through foreclosure or in action to foreclose mortgage; petition; motion; finding; appointment; nominations by mortgagee and lien claimant; fiduciary responsibility; appointment of receiver for residential structure or certain apartment buildings prohibited; power of receiver.

Sec. 122. (1) If the improvement to the real property is not completed as of the date of commencement of an action in which enforcement of a construction lien through foreclosure is sought or in any action to foreclose a mortgage on the real property on which the incomplete improvement exists, any lien claimant or mortgagee may petition the court for the appointment of a receiver. The petition shall be heard as a motion. A receiver may be appointed by the court upon finding that a substantial unpaid construction lien exists, or that the mortgage on the real property is in default and that the lien claimant, the mortgagee, or both, are likely to sustain substantial loss if the improvement is not completed.

(2) When making an appointment of a receiver under this section, the court shall give consideration to the nominations of the mortgagee and the lien claimant. Any receiver appointed under this section shall be

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deemed a fiduciary for the benefit of all persons having or claiming interests in the real property, and shall exercise his or her office accordingly.

(3) A receiver shall not be appointed under this section for any residential structure, nor for any apartment building containing 4 or less apartments.

(4) The receiver shall be entitled to possession of the real property upon his or her appointment. Unless otherwise limited by the court, and subject to his or her fiduciary responsibility as provided in this act, the receiver shall have all powers generally exercised by a receiver in a court of equity, including the right to be compensated for his or her services and those of his or her agents and attorneys.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982.

570.1123 Petition by receiver for authority to complete construction of improvements, borrow money, grant security, or sell real property under foreclosure; sale; redemption period; purchase of real property by lien claimant or mortgagee; right, title, and interest vested in grantee.

Sec. 123. (1) The receiver may petition the court for authority to complete construction of improvements to the real property in full or in part, to borrow money to complete the construction, and to grant security, by way of mortgage or otherwise, for the borrowings. The priority of the security shall be determined by the court. A petition for authority to complete construction of improvements shall not be granted unless the court finds that the value added to the real property which will result from the construction is likely to exceed the cost of the additional construction, including all estimated overhead and administrative costs, together with interest on any funds that are to be borrowed for the construction. The receiver also may be authorized by the court to borrow funds for other purposes, including such purposes as preserving and operating the real property.

(2) The receiver may petition the court for authority to sell the real property interest under foreclosure for cash or on other terms as may be ordered by the court. The sale may be by private or public sale and shall be held in the manner directed by the court. A sale under this subsection shall become final upon the entry of an order of confirmation by the court, unless the court allows a period for redemption. The redemption period, if allowed, shall not exceed 4 months.

(3) Any lien claimant or mortgagee may purchase the real property at a sale on foreclosure or a sale by the receiver, and may apply on the purchase price any sums which would be payable to him or her from the proceeds of the sale.

(4) Pursuant to section 119(3) and subject to section 121(1), a sale by the receiver, upon becoming final, shall vest in the grantee named in the deed all the right, title, and interest in the real property which the owner, co-owner, lessee, or co-lessee whose interest is being foreclosed had at the date of the execution of the contract for the improvement or at any time thereafter.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982.

570.1124 Final account of receiver; final order directing distribution of assets; order of priority; deficiency judgment; notice of hearing.

Sec. 124. (1) Upon the completion of the sale of the real property, the receiver shall prepare and submit a final account for examination and approval by the court. The court shall enter a final order directing the distribution of all funds or other assets held by the receiver. Repayment of funds borrowed by the receiver, under court authority, for the completion of improvements, or for any other purpose shall have priority in the distribution, unless a different priority has been ordered by the court. The next priority shall be that of funds expended by the receiver, including his or her fees and those of his or her attorneys and agents. The remaining funds shall be distributed to the parties in the order of the priority of their respective liens, encumbrances, or other rights as determined by the court. The court shall adjudicate the right, if any, to a deficiency judgment against any contracting party.

(2) Each person who appeared in the foreclosure action shall receive a notice of hearing on any court action concerning the receivership.

History: 1980, Act 497, Eff. Jan. 1, 1982.

570.1125 Assignability of construction lien; powers and obligations of assignee.

Sec. 125. A construction lien which arises under this act is assignable. Proceedings for the enforcement of the lien may be maintained by, and in the name of, the assignee. In that case, the assignee shall have the same power to enforce the construction lien, and shall be subject to the same obligations, as if the proceedings were being taken by, and in the name of, the lien claimant.

History: 1980, Act 497, Eff. Jan. 1, 1982.

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570.1126 Construction lien concerning condominium; limitations; definitions.

Sec. 126. (1) A construction lien, concerning a condominium, arising under this act is subject to the following limitations:

(a) Except as otherwise provided in this section, a construction lien for an improvement furnished to a condominium unit or to a limited common element shall attach only to the condominium unit to which the improvement was furnished.

(b) A construction lien for an improvement authorized by the developer of a condominium project and performed upon the common elements shall attach only to condominium units owned by the developer at the time of recording of the claim of lien.

(c) A construction lien for an improvement authorized by the association of coowners of condominium units shall attach to each condominium unit only to the proportional extent that the coowner of the condominium unit is required to contribute to the expenses of administration, as provided by the condominium documents.

(d) A construction lien shall not arise or attach to a condominium unit for work performed on the common elements, if the work was not contracted for by the developer or the association of coowners of condominium units.

(2) This section shall be subject to the definitions and limitations of Act No. 59 of the Public Acts of 1978, being sections 559.101 to 559.272 of the Michigan Compiled Laws.

History: 1980, Act 497, Eff. Jan. 1, 1982.

570.1127 Full payment of claim of lien; certificate; discontinuance or dismissal of action to enforce lien through foreclosure and to discharge notice of lis pendens; documents; providing discharges of lien and other documents.

Sec. 127. (1) When any claim of lien has been fully paid, the lien claimant shall deliver to the owner, lessee, or other person making payment a certificate, witnessed and acknowledged in the same manner as a discharge of mortgage, that the claim has been paid and is now discharged. If an action to enforce the construction lien through foreclosure is pending, the lien claimant also shall furnish, upon request, those documents which are necessary to effect a discontinuance or dismissal of the action and a discharge of any notice of lis pendens filed in connection with the action.

(2) An agent who is authorized to prepare and serve a notice of furnishing on behalf of a laborer or group of laborers or an agent who is authorized to prepare, record, and serve a claim of lien on behalf of a laborer or group of laborers is automatically authorized to provide discharges of lien and other documents described in subsection (1), unless or until the laborer or group of laborers notifies the designee in writing that someone other than a previously authorized agent is duly authorized to provide the appropriate documents. An agent who is authorized to prepare and serve a notice of furnishing or a claim of lien on behalf of a laborer or group of laborers shall be responsible for providing discharges of lien and the other documents described in subsection (1) on behalf of such laborer or laborers pursuant to this section. An agent who is authorized to prepare and serve a claim of lien on behalf of a laborer or group of laborers shall be responsible for providing discharges of lien and the other documents described in subsection (1) on behalf of such laborer or laborers pursuant to this section. An individual laborer may also provide discharges of lien and the other documents described in subsection (1) pursuant to this section instead of the agent.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982.

570.1128 Failure to commence proceedings to enforce lien within time provided by law; certificate; recording; affidavit showing time statement or claim of lien recorded.

Sec. 128. If any statement or claim of lien has been recorded in the office of a register of deeds, and the time within which proceedings to enforce the lien through foreclosure has elapsed without commencement of the proceedings, a person with an interest in the real property affected by the lien, or that person's agent or attorney, may make and present to the county clerk of the county in which the statement or claim of lien was recorded, an affidavit showing the time when the statement or claim of lien was recorded and the names of the parties to the statement or claim of lien. The county clerk shall examine the records of his or her office, and if it appears that proceedings to enforce the lien have not been commenced with the time provided by law, the county clerk shall execute and deliver to the owner a certificate of that fact, bearing the seal of the circuit court. The certificate may be recorded in the office of the register of deeds for the county where the statement or claim of lien was recorded, after which the statement or claim of lien shall have no effect.

History: 1980, Act 497, Eff. Jan. 1, 1982.

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PART 2

570.1201-570.1207 Repealed. 1010, Act 147, Imd. Eff. Aug. 23, 2010.

Compiler's note: The repealed sections pertained to the homeowner construction lien recovery fund.

PART 3

570.1301 Repealed. 2018, Act 367, Imd. Eff. Dec. 12, 2018.

Compiler's note: The repealed section pertained to laws governing rights to construction liens.

570.1302 Construction of act.

Sec. 302. (1) This act is declared to be a remedial statute, and shall be liberally construed to secure the beneficial results, intents, and purposes of this act. Substantial compliance with the provisions of this act shall be sufficient for the validity of the construction liens provided for in this act, and to give jurisdiction to the court to enforce them.

(2) This act shall not be construed to prevent a lien claimant from maintaining a separate action on a contract.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982.

570.1303, 570.1304 Repealed. 2010, Act 147, Imd. Eff. Aug. 23, 2010.

Compiler's note: The repealed sections pertained to the repeal of certain acts and creation of a joint review committee in the legislative council.

570.1305 Effective date of act; effective date of MCL 570.1303.

Sec. 305. (1) Except as provided in subsection (2), this act shall take effect January 1, 1982.

(2) Section 303 takes effect March 1, 1982.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982.

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