

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

SENATE FILE NO. _____

Liens.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to liens; reorganizing lien statutes as
2 specified; clarifying the process for filing liens;
3 specifying time limits for filing forms; conforming
4 statutes; authorizing attorney fees and costs as specified;
5 amending definitions; and providing for an effective date.

6

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

8

9 **Section 1.** W.S. 29-1-103 through 29-1-105, 29-1-312
10 through 29-1-317, 29-1-401 through 29-1-408, 29-1-501,
11 29-1-601, 29-9-101 through 29-9-103 and 29-10-101 through
12 29-10-105 are created to read:

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ARTICLE 1

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GENERAL PROVISIONS

29-1-103. Short title.

W.S. 29-1-103 through 29-10-105 shall be known and may be cited as the Revised Wyoming Statutory Lien Act.

29-1-104. Common law liens superseded.

(a) This act hereby supersedes and replaces any liens under Wyoming common law, if any, except nothing herein shall affect or abridge:

(i) A right of setoff;

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

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

29-1-105. Lien statutes to be construed liberally.

1

2 The court may, in its discretion, construe the notice and
3 lien filing requirements in this act liberally to prevent
4 inequitable results and unjust enrichment provided the lien
5 claimant has substantially complied with the filing
6 requirements and no procedural rights are prejudiced. All
7 other provisions in this act shall be strictly construed,
8 including complying in all respects with the time limits
9 specified for providing preliminary lien notices, notice of
10 intent to file a lien, lien filings, and initiating lien
11 foreclosure actions.

12

13 **29-1-312. Preliminary notices.**

14

15 (a) With respect to perfecting the right to file a
16 construction lien under chapter 2 of this act, the
17 following additional preliminary notice requirements shall
18 apply:

19

20 (i) The contractor, subcontractor and
21 materialman shall send written notice to the record owner
22 of the right to assert a lien against the property for
23 which services or materials are provided if the contractor,

1 subcontractor or materialman is not paid. The
2 subcontractor and materialman shall provide a copy of the
3 written notice to the contractor for which the
4 subcontractor or materialman is providing services or
5 materials ??;

6 *** STAFF COMMENT ***

7 My notes indicate that there was some discussion
8 about only applying the preliminary notice
9 requirements to the general contractor.
10 Therefore, I will highlight all references that
11 would potentially apply the requirement to subs
12 and materialmen. Whether the notice requirement
13 should apply to subs and materialmen perhaps
14 should be further discussed as the bill is
15 considered by the Committee.
16

17

18 (ii) The notice required under this section
19 shall be sent within thirty (30) days after first providing
20 services or materials to the construction project;
21

22 (iii) Failure to send the notice required under
23 this section within the time specified shall bar the right
24 of a contractor, subcontractor or materialman to assert a
25 lien;
26

27 (iv) The notice required under this section
28 shall be in substantially the same format and contain the

1 same information as the notice contained in W.S. 29-10-101.
2 The form shall be made available and may be obtained at the
3 county clerk's office of each county.

4

5 **29-1-313. Notice of intention to file lien.**

6

7 (a) Before filing a lien statement pursuant to this
8 act, a lien claimant shall send written notice to the
9 record owner or his agent of any claim against real
10 property, a building, an improvement stating the amount of
11 any claim and from whom it is due. The notice shall be
12 sent no later than thirty (30) days prior to filing a lien
13 statement.

14

***** STAFF COMMENT *****

15

**I added "record" before "owner". The term "or his agent" is in
16 current law, but there was some discussion about whether or not to
17 remove that term.**

18

19 (b) The notice under this section shall be required
20 only for construction liens filed under chapter 2 of this
21 act and for oil, gas and mining liens filed under chapter 3
22 of this act.

23

24 (c) The notice under this section shall be in
25 substantially the same format and contain the same

1 information as the notice form specified in W.S. 29-10-102.
2 The notice forms shall be made available and may be
3 obtained at the county clerk's office of each county.

4

5 **29-1-314. Lien statement to be filed; contents;**
6 **notice; fee.**

7

8 (a) In order to have a perfected lien pursuant to
9 this act, a lien claimant shall file with the county clerk
10 a verified lien statement sworn to and acknowledged by the
11 lien claimant before a notary public. The lien statement
12 shall not be signed by the claimant's attorney or other
13 representative on behalf of the claimant. The county clerk
14 shall file and index the statement by date, names of
15 claimant and property owner, and legal description of the
16 property.

17

***** STAFF COMMENT *****

18 **The language in the preceding subsection (a) is**
19 **derived from current W.S. 29-1-301(a). The term**
20 **"verified" is new a new requirement for the lien**
21 **statement. That issue is currently before the**
22 **Wyoming Supreme Court in docket 09-0058. If the**
23 **Committee decides to retain the new requirement,**
24 **perhaps it may be clearer to revise the sentence**
25 **to read ". . . a lien claimant shall file with**
26 **the county clerk a lien statement verifying the**
27 **accuracy of the lien and the allegations set**
28 **forth in the lien statement, sworn to and**
29 **acknowledged by the lien claimant before a notary**

1 **public." This would clarify the intent of the**
2 **new requirement.**

3
4 (b) The lien statement and the abstracts shall
5 contain as appropriate the following information:

6
7 (i) The name and address of the lien claimant;

8
9 (ii) The amount claimed to be due and owing;

10
11 (iii) The name and address of the person against
12 whose property the lien is filed;

13
14 (iv) An itemized list setting forth and
15 describing materials delivered or work performed;

16
17 (v) The name of the person whom the lien
18 claimant alleges is contractually responsible to pay the
19 debt secured by the lien;

20 ***** STAFF COMMENT *****
21 **I replaced "legally" with "contractually".**
22

23 (vi) The date when labor was last performed or
24 services were last rendered or the date when the project
25 was substantially completed;

1

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

5

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

10

11 (c) Notice shall be sent by the lien claimant to the
12 last record owner in the case of a real property lien
13 promptly after the lien statement is filed. The notice
14 shall be in substantially the same format and contain the
15 same information as the form of notice specified in W.S.
16 29-10-103. The notice forms shall be made available and
17 may be obtained at the county clerk's office of each
18 county.

19

***** STAFF COMMENT *****

20

I replaced "last known owner" with "last record owner".

21

22 (d) As a fee for filing a lien statement, the county
23 clerk shall collect from the lien claimant the same fee as
24 provided by W.S. 18-3-402(a)(xvi)(P). An irregularity in

1 the lien statement may provide a valid defense for a party
2 defending against the lien. The county clerk shall
3 nevertheless file a lien statement at the date and time
4 received by the county clerk, regardless of any
5 irregularity, illegible language or other reason.

6

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

9

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

15

16 **29-1-315. When lien statement to be filed; rights of**
17 **subcontractor and materialman not abridged by contract**
18 **between owner and contractor; owner's notice of substantial**
19 **completion of project.**

20

21 (a) Any contractor asserting a lien under chapter 2
22 of this act shall file his lien statement within one
23 hundred fifty (150) days, and any other person asserting a

1 lien under chapter 2 of this act shall file his lien
2 statement within one hundred twenty (120) days:

3 ***** STAFF COMMENT *****

4 **I replaced "subcontractor or materialmen" with "other person" in**
5 **the preceding introductory paragraph of subsection (a) because the**
6 **latter term is broader and should not raise an issue with the scope of**
7 **the language in subsection (b) of this section.**
8

9 (i) After the last day when work was performed
10 or materials furnished under contract;

11
12 (ii) From the date the work was substantially
13 completed or substantial completion of the contract to
14 furnish materials, whichever is earlier; or

15
16 (iii) With respect to a worker or subcontractor,
17 after the last day he performed work at the direction of
18 the contractor.

19
20 (b) No contract made between the owner and the
21 contractor shall be construed to affect or restrict the
22 right of any subcontractor, materialman or worker to file a
23 lien.

24 ***** STAFF COMMENT *****

25 **I deleted "journeyman" in subsection (b) from the**
26 **previous draft because such person would probably**
27 **be covered under one of the other terms in the**

1 **subsection. I replaced "employee" with "worker"**
2 **on line 16 to be consistent with line 22.**
3

4 (c) The owner may record a notice of substantial
5 completion of the project in the records of the county
6 clerk in the county where the project is located. After
7 the notice has been duly recorded, the owner shall send a
8 copy of the notice to all contractors, subcontractors and
9 materialmen who provided the record owner with preliminary
10 notice pursuant to W.S. 29-1-312. Compliance with this
11 provision shall be presumed to accurately reflect the date
12 the project was substantially completed for purposes of
13 this act. The notice shall not extend the date by which a
14 lien statement shall be filed as may otherwise be provided
15 in this act.

16 ***** STAFF COMMENT *****
17 **I changed "deemed" to "presumed."**
18

19 **29-1-316. Notice of satisfaction to be filed.**
20

21 (a) Whenever any debt which is secured by a lien
22 pursuant to this act is paid and satisfied, the lien
23 claimant shall file notice of satisfaction of the lien
24 statement in the office of the county clerk of any county
25 in which the lien is filed and the lien claimant shall

1 promptly send the owner a copy of the notice of
2 satisfaction. The notice of satisfaction shall be
3 acknowledged, but may be signed by the lien claimant or the
4 attorney for the lien claimant.

5
6 (b) The notice of satisfaction shall be in
7 substantially the same format and contain the same
8 information as the notice of satisfaction form in W.S. 29-
9 10-105. The notice of satisfaction forms shall be made
10 available and may be obtained at the county clerk's office
11 of each county.

12

13 **29-1-317. Liability for failure to file a notice of**
14 **satisfaction.**

15

16 In addition to any actual damages, any lien claimant
17 refusing or neglecting to file the notice of satisfaction
18 as provided in W.S. 29-1-316 within thirty (30) days after
19 payment, and after having received by certified or
20 registered mail a request in writing to file the notice of
21 satisfaction, is liable for damages of not less than one-
22 tenth of one percent (.10%) of the original principal
23 amount of the debt per day from date the lien claimant

1 receives the written request to file a notice of
2 satisfaction, until the lien claimant files a notice of
3 satisfaction. The penalty shall only be imposed if the
4 lien claimant does not file the notice of satisfaction
5 within thirty (30) days after having received the written
6 request to file such notice, as provided in this section.
7 The damages authorized by this section shall not exceed one
8 hundred dollars (\$100.00) per day.

9 ***** STAFF COMMENT *****

10 **The term "enters" is changed in this section to**
11 **"files"? Also, language was inserted to specify**
12 **the clock starts running for the "per day"**
13 **penalty after the date of receipt of the request**
14 **to file the notice of satisfaction. The penalty**
15 **would only be imposed if the lien claimant does**
16 **not file the notice within 30 days after**
17 **receiving the written request to file such**
18 **notice, thus allowing the lien claimant 30**
19 **additional days to verify that the lien has in**
20 **fact been satisfied.**

21

22

ARTICLE 4.

23

ACTIONS TO FORECLOSE LIENS

24

25 **29-1-401. Jurisdiction of circuit and district court;**
26 **Rules of Civil Procedure applicable in foreclosure action;**
27 **attorney fees.**

28

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

7

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

10

11 (c) In the event an action is filed to foreclose a
12 lien pursuant to this act, the prevailing party shall be
13 entitled to recover from the non-prevailing party all costs
14 and expenses reasonably associated with the action,
15 including but not limited to reasonable attorney fees for
16 maintaining the action and attorney fees and costs incurred
17 in attempts to resolve payment of the debt secured by the
18 lien prior to filing the action.

19

20 **29-1-402. Priority of liens.**

21

1 **decision. Staff and members of the working group,**
2 **, one of whom also spoke with an attorney with**
3 **the Supreme Court, have not been able to identify**
4 **any case before the Supreme Court dealing with**
5 **this issue.**
6

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

13

14 **29-1-403. Work or materials furnished considered done**
15 **under same contract; exceptions.**

16

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

24

25 **29-1-404. Notice of foreclosure to prior perfected**
26 **lienholders; effect of failure to notify.**

1

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

7

8 **29-1-405. Remedies not exclusive.**

9

10 The remedies provided by this act are not exclusive.

11

12 **29-1-406. Filing and recording fees.**

13

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

17

18 **29-1-407 Consent to jurisdiction and venue.**

19

20 By contracting to perform work or furnish materials on a
21 project located in Wyoming, each contractor, subcontractor
22 and materialman who asserts a lien submits to the laws of
23 Wyoming and the jurisdiction of the district and circuit

1 courts in the county in which the project is situated with
2 respect to all lien claims, regardless of whether the lien
3 claimant is a resident of Wyoming and regardless of whether
4 the contract contains a contrary choice of law or venue
5 provision. Venue for any mediation or arbitration of lien
6 claims shall be proper only in the county in which the
7 project is located, unless the parties agree otherwise.

8

9 **29-1-408 Identity of owner provided.**

10

11 The contractor shall provide to subcontractors and
12 materialmen at the time of contracting with them the name
13 and address of the owner, and legal description of the site
14 of the project on which work will be performed or materials
15 furnished.

16

17

ARTICLE 5

18

SUBSTITUTE SECURITY FOR LIENS

19

20 **29-1-501. Substitute security to satisfy lien; filing**
21 **and effect thereof; action upon security.**

22

1

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

5

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

15

***** STAFF COMMENT *****

16 **The parties who may file a notice of satisfaction**
17 **was changed to include only the owner or the lien**
18 **claimant, the latter of whom would include the**
19 **parties no longer specifically identified in this**
20 **subsection.**

21

22 (f) A lien claimant whose lien has been satisfied by
23 the substitution of the security pursuant to subsection (e)
24 of this section may bring an action upon the security. The
25 action shall be commenced within the time allowed for the
26 commencement of an action to foreclose the lien. The

1 prevailing party in the action shall be entitled to recover
2 all costs and attorneys' fees incurred before and after the
3 action was commenced that are reasonably related to the
4 lien.

5

6

ARTICLE 6

7

FALSE OR FRIVOLOUS LIENS

8

9

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

10 **penalties.**

11

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

19

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

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

13

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

21

22 (ii) The order shall clearly state that if the
23 lien claimant fails to appear at the time and place noted,

1 the claim of lien shall be stricken and released, and that
2 the lien claimant shall be ordered to pay damages of at
3 least one thousand dollars (\$1,000.00) or actual damages,
4 whichever is greater, and the costs incurred by the
5 petitioner, including reasonable attorneys' fees;

6

7 (iii) The order and petition shall be served upon the
8 lien claimant by personal service, or, where the court
9 determines that service by mail or other comparable method
10 of delivery is likely to give actual notice, the court may
11 order that service be made by mailing or delivering copies
12 of the petition and order to the lien claimant at his last
13 known address or any other address determined by the court
14 to be appropriate. Two (2) copies shall be sent, one (1)
15 by ordinary first class mail and the other by a form of
16 mail or other delivery method requiring a signed receipt
17 showing when and to whom it was delivered. The envelopes
18 shall bear the return address of the sender;

19

20 (iv) If, following a hearing on the matter the
21 court determines that the claim of lien is invalid under
22 subsection (a) of this section, was forged or that the lien
23 claimant knew at the time of filing the lien was groundless

1 or contained a material misstatement or false claim, the
2 court shall issue an order striking and releasing the claim
3 of lien and awarding damages of one thousand dollars
4 (\$1,000.00) or actual damages, whichever is greater, costs
5 and reasonable attorneys' fees to the petitioner to be paid
6 by the lien claimant;

7

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

12

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

21

22

CHAPTER 9

23

MISCELLANEOUS LIENS

1

2 **29-9-101. Lien of state on realty of debtor.**

3

4 The amount of every account audited, adjusted and found due
5 to the state including penalties and interest is a lien
6 upon the real property of the person charged with the debt.

7 The lien shall be in effect from the time suit commences
8 for the recovery of the debt.

9

10 **29-9-102. Lien of attorneys on papers and monies of**
11 **clients.**

12

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

17

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

20

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

23

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

5

6 **29-9-103. Other lien statutes not affected by this**
7 **act.**

8

9 Unless other statutes relating to liens specifically
10 provide that the procedures specified in chapter 1, 2, 9 or
11 10 of this act apply, this act is supplemental to and does
12 not supersede any other lien statutes contained in chapters
13 3 through 8 of this act nor other lien statutes nor other
14 statutes relating in any way to liens currently existing
15 related to other types of property or other subject
16 matters.

17

18

CHAPTER 10

19

FORMS

20

21 **29-10-101. Preliminary notice of right to lien; lien**
22 **waiver form.**

23

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

5

6 Note to Lien Claimant: This form, if filled out correctly
 7 and sent within the time periods specified in W.S. 29-1-
 8 312, constitutes prima facie evidence that the lien
 9 statutes have been complied with. If you have any questions
 10 regarding how to fill out this form or whether it has been
 11 filled out properly, you should consult an attorney.

12

13

14

NOTICE TO OWNER

15

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

27

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

30

31

32

33

34

35 MATERIALS PROVIDED OR WORK PERFORMED:

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PROPERTY DESCRIPTION:

ADDRESS:

LEGAL DESCRIPTION:

SIGNED: _____

DATE: _____

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

***** STAFF COMMENT *****

I incorporated the lien waiver form, which was previously W.S. 29-10-106 into W.S. 29-10-101 as a subsection (b), because subsection (a) of this section, the preliminary notice, addresses the lien waiver form. Language was deleted from the introductory paragraph relating to the process for the filing and sending of a lien waiver upon advice that the line waiver does not have to be filed or sent to the lien claimant.

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

LIEN WAIVER

TO: _____ PROJECT: _____

FROM: _____

1 IN WITNESS THEREOF, I have hereunto set my hand and
2 affixed my official seal on the day and year last above
3 written.

4
5
6 _____
7 Notary Public

8
9 My Commission Expires:

10
11 Seal:

12
13

14 **29-10-102. Form for notice of intention to file lien.**

15

16 (a) Notice of intention to file a lien shall be sent
17 to the owner of the property against which the lien may be
18 filed, sent to the lien claimant and shall be completed in
19 substantially the following form:

20

21 Note to lien claimant: This form, if filled out correctly
22 and sent within the time periods specified in W.S. 29-1-313
23 constitutes prima facie evidence of compliance with the
24 lien statutes. If you have any questions regarding how to
25 fill out this form or whether it has been filled out
26 properly, you should consult an attorney.

27

28 CERTIFIED MAIL, RETURN RECEIPT REQUESTED

29

30 To: _____

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

33

34 Date: _____, 20____

35

36 Re: Notice of Intention to File Lien

37

1 You are hereby notified pursuant to W.S. 29-1-313 that
 2 _____ (hereinafter the "lien claimant")
 3 intends to file a lien against your property.

4
 5 The amount of the lien claim is \$_____. This
 6 amount is due from _____ (person/entity
 7 whose actions have caused a lien to be filed) pursuant to a
 8 contract with the lien claimant under which the lien
 9 claimant performed work or supplied materials for the work.

10
 11 If we are unable to resolve this matter amicably within
 12 thirty (30) days from the date of this notice, the lien
 13 claimant intends to file the lien statement asserting a
 14 lien against your property.

15
 16 cc: _____
 17 _____
 18 _____

19
 20 **29-10-103. Form of notice of filing lien.**

21
 22 (a) Notice of filing a lien shall be sent to the
 23 owner of the property against which the lien shall be
 24 filed, sent to the lien claimant and shall be completed in
 25 substantially the following form:

26
 27 Note to lien claimant: This form, if filled out correctly
 28 and sent within the time periods specified in W.S. 29-1-313
 29 constitutes prima facie evidence of compliance with the
 30 lien statutes. If you have any questions regarding how to
 31 fill out this form or whether it has been filled out
 32 properly, you should consult an attorney.

33
 34 CERTIFIED MAIL, RETURN RECEIPT REQUESTED

35
 36 To: _____
 37 Owner or agent of owner (note: If there is more than one
 38 (1) owner, use a form for each owner)

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Date: _____, 20__

Re: Notice of Filing Lien

This letter shall serve as notice to you pursuant to W.S. 29-1-314 that _____ (hereinafter the "lien claimant") has filed a lien against your property.

cc: _____

29-10-104. Form for lien statement.

(a) The lien statement shall be filed with the county clerk's office in the county where the property against which the lien is filed is located, sent to the lien claimant and shall be completed in substantially the following form:

Note to lien claimant: This form, if filled out correctly and filed with the county clerk's office within the time periods specified in W.S. 29-1-315 constitutes prima facie evidence of compliance with the lien statutes. If you have any questions regarding how to fill out this form or whether it has been filled out properly, you should consult an attorney.

STATE OF _____)
) ss.
COUNTY OF _____)

LIEN STATEMENT

1 Pursuant to the provisions of W.S. 29-1-314 relating to
2 lien statements, the undersigned hereby files this lien
3 statement and swears as follows:

4

5 1. Name and address of lien claimant:

6

7

8

9

10

11

12

13 2. The amount claimed to be due and owing: \$_____,
14 plus pre-judgment interest at a rate of ____% (if
15 applicable), and attorneys' fees and costs incurred by lien
16 claimant in the collection of this amount.

17

18 3. The names and addresses of the persons against whose
19 properties the lien is filed include:

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

4
5 7. The legal description of the real property where the
6 lien claimant performed work or furnished materials is set
7 forth in Exhibit "B", attached hereto.

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

14 _____
15 _____
16 _____
17 _____
18 _____

19
20 A copy of the written contract, if applicable, is located
21 at the following address:

22 _____
23 _____
24 _____
25 _____
26 _____

27
28
29 DATED this _____ day of _____, 20____.

30
31 Name of lien claimant: _____

32
33 By: _____

34
35 Signature: _____

36
37 Title: _____

38
39 Note to Notary Public: If the lien claimant is a legal
40 entity formed under Title 17 of the Wyoming Statutes or
41 other applicable law, use the first jurat. If the lien
42 claimant is an individual or sole proprietor, use the
43 second jurat.

44
45 (Alternative 1:)

46

1 STATE OF _____)
 2) ss.
 3 COUNTY OF _____)
 4

5 On this ____ day of _____, 20____, subscribed and
 6 sworn to before me personally appeared
 7 _____ (name of signatory), to me
 8 personally known, who has read the foregoing Lien Statement
 9 and knows the contents thereof and the facts are true to
 10 the best of his/her knowledge, and being by me duly sworn,
 11 did state that he/she is the _____
 12 (title, position or type of authority granted by lien
 13 claimant) of _____ (lien claimant)
 14 and that this lien statement was signed and sealed on
 15 behalf of the lien claimant by authority granted to the
 16 signatory by the lien claimant.
 17

18 Witness my hand and official seal.

19
 20 _____
 21 Notary Public

22
 23 My Commission Expires:

24
 25 Seal:
 26

27 (Alternative 2:)

28

29 STATE OF _____)
 30) ss.
 31 COUNTY OF _____)
 32

33 On this ____ day of _____, 20____, subscribed and
 34 sworn to before me personally appeared
 35 _____ (name of signatory), to me
 36 personally known, who has read the foregoing Lien Statement
 37 and knows the contents thereof and the facts are true to
 38 the best of his/her knowledge, and being by me duly sworn,
 39 did state that the lien statement to be the free act and
 40 deed of the lien claimant.

41
 42 Witness my hand and official seal.

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Notary Public

My Commission Expires:

Seal:

9

29-10-105. Form for notice of satisfaction of lien.

10

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

16

Note to lien claimant: This form, if filled out correctly and filed with the county clerk's office within the time periods specified in W.S. 29-1-317 constitutes prima facie evidence of compliance with the lien statutes. If you have any questions regarding how to fill out this form or whether it has been filled out properly, you should consult an attorney.

24

STATE OF _____)
) ss.
COUNTY OF _____)

28

NOTICE OF SATISFACTION OF LIEN

29

Pursuant to the provisions of W.S. 29-1-316, the undersigned hereby files its notice of satisfaction of lien statement and hereby releases its lien(s), filed with the Clerk of _____ County on the _____ day of _____, 20____, commencing at Page _____ of Book _____.

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Dated this _____ day of _____, 20__.

Name of lien claimant: _____

By: _____

Signature: _____

Title: _____

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

(Alternative 1:)

STATE OF _____)
) ss.
COUNTY OF _____)

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

Witness my hand and official seal.

Notary Public

My Commission Expires:

Seal:

1 (Alternative 2:)

2

3 STATE OF _____)

4) ss.

5 COUNTY OF _____)

6

7 On this _____ day of _____, 20____, subscribed and

8 sworn to before me personally appeared

9 _____ (name of signatory), to me

10 personally known, who has read the foregoing Notice of

11 Satisfaction of Lien and knows the contents thereof and the

12 facts are true to the best of his/her knowledge, and being

13 by me duly sworn, did state that the Notice of Satisfaction

14 of Lien to be the free act and deed of the lien claimant.

15

16 Witness my hand and official seal.

17

18 _____

19 Notary Public

20

21 My Commission Expires:

22

23 Seal:

24

25 **Section 2.** W.S. 5-9-128(a)(vi)(C),

26 29-1-201(a)(intro), (iv), (v)(intro) and by creating new

27 paragraphs (viii) through (xii), (b)(i), (intro),

28 29-2-101(a), (c) and by creating new subsections (e) and

29 (f), 29-2-103, 29-2-105(a)(intro), 29-2-106(c), 29-2-108,

30 29-4-102, 29-5-103(b)(intro), 29-7-103(a), 29-8-102(a), 41-

31 5-111(d) and 42-4-202(b)(intro) are amended to read:

32

33 **5-9-128. Civil jurisdiction.**

34

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

3

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

8

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

12

13 **29-1-201. Definitions; agency relationships presumed.**

14

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

17

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

22

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

1

2

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

5

6

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

8

9

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

12

13

(xi) "Send" or "sent" means, in connection with any writing or written notice, to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument to an address specified thereon or otherwise agreed, or if no address is specified, to any address reasonable under the circumstances. The foregoing method of delivery includes delivery by any commercial carrier that requests and maintains a receipt for delivery of written documents and also includes an electronic record as

23

1 set forth in the Uniform Electronic Transactions Act if the
2 sender and recipient have previously communicated by
3 electronic means. In the event any writing is transmitted
4 by mail with the U.S. Postal Service, such writing shall be
5 mailed by certified mail, return receipt requested, or by
6 mail delivery requiring a receipt for delivery. The time
7 such writing is deemed to have been sent is the time at
8 which the writing is deposited in the mail or delivered for
9 transmission by any other means and, in the case of an
10 electronic record, the time of sending is as specified in
11 W.S. 40-21-115;

12

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

18

19 (xiii) "This act" means W.S. 29-1-103 through
20 29-10-105.

21

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

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

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

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

***** STAFF COMMENT *****

The first use of the term "land" was changed to "real property". It may have been an oversight not to make the change in the earlier draft

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

6
7 (e) A lien claimant who has not received authority to
8 transact business in Wyoming and licenses from all
9 applicable licensing authorities of the state of Wyoming
10 and Wyoming counties, cities and towns at the time of
11 performing work on or providing materials to a project is
12 barred from asserting a lien against such project. Any
13 lien claimant that held such authority or license in good
14 standing at the time work was first performed or materials
15 first provided by the lien claimant may reinstate such
16 authority or license if they should become delinquent,
17 lapse or terminate thereafter, and reinstatement shall
18 preserve the right to assert a lien. Reinstatement of the
19 authority or license under this subsection shall not be
20 required if the lien claimant no longer is engaged in the
21 same business of performing work or providing materials and
22 is asserting a lien as a result of work performed or

1 materials provided while the lien claimant had the
2 necessary authority or license to perform the work.

3 ***** STAFF COMMENT *****

4 **I added the last sentence, based on a concern expressed at the July**
5 **meeting, using language provided by a member of the working group.**
6 **Additionally, various parties previously specified were deleted and**
7 **would now be covered under the term "lien claimant."**
8

9
10 (f) The lien under this section shall extend to the
11 owner's real property and easements to the extent necessary
12 to provide legal access by a roadway for ingress and egress
13 to the building, improvements, or real property subject to
14 the lien, not to exceed forty (40) feet in width to the
15 nearest easement, public road or highway.

16 ***** STAFF COMMENT *****

17 **In the working draft, the existing subsection (c),**
18 **supra, is shown as new (d) and a new (c) is inserted**
19 **between the existing (b) and (c). Also, the existing (d),**
20 **relating to liens of cooperative utilities, does not appear**
21 **in the working draft. I believe the intent would be that**
22 **the existing (d) should not be repealed, so this section,**
23 **29-2-101 needs to be revisited with respect to the newly**
24 **created provisions. I have placed the new subsections from**
25 **the working draft as (e) and (f), after all existing**
26 **subsections [(a) through (d)] in the section. I don't**
27 **believe this numbering would cause much confusion, but**
28 **would like feedback before processing it further.**
29

30 **29-2-103. Right of judicial sale and removal of**
31 **improvements.**
32

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

12 ***** STAFF COMMENT *****

13 The final working draft had the term "attorney's
14 fees" which may be the more correct term
15 grammatically, but the statutes mostly use the
16 terms "attorneys' fees", "attorney fees" and, in
17 one instance "attorneys fees". These terms are
18 listed herein in descending frequency of use in
19 the statutes. So I used the term most frequently
20 used in statute, for better or worse. Since the
21 previous draft, it was correctly pointed out that
22 the change from "land" to "real property" in the
23 second sentence is probably not appropriate;
24 therefore, the term "land" was reinserted. Some
25 discussion may be needed with respect to the use
26 of the term "land" or "real property".
27

28 **29-2-105. Lien for improvements placed by tenant**
29 **authorized by landlord.**

30

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

9
10 **29-2-106. When statement lien to be filed; rights of**
11 **subcontractor not abridged by contract between owner and**
12 **contractor; agreement to extend filing period.**

13
14 (c) Any party to a contract for which a lien may be
15 filed may agree to an extension of the time within which
16 the lien may be filed. The time agreed upon may not exceed
17 twice the time within which the lien would have to be filed
18 in accordance with subsection (a) of this section. The
19 agreement shall be acknowledged before a notarial officer,
20 and signed by the owner, the contractor and any other
21 parties to the contract before it is valid. The agreement
22 shall be filed with and recorded by the county clerk in the
23 manner provided by W.S. ~~29-1-301~~29-1-314 for a lien

1 statement. The lien rights of persons not signing the
2 agreement are not affected by it.

3

4 **29-2-108. Duty of contractor to defend action;**
5 **liability of contractor to owner.**

6

7 The contractor shall, at his own expense, defend any action
8 brought by his employee, subcontractors hired by the
9 contractor, their employees or by any suppliers of
10 materials provided under contract in accordance with this
11 chapter. ~~at his own expense.~~ During the pendency of the
12 action the owner or his agent may withhold from the
13 contractor the amount of money for which a lien is filed.
14 If judgment is rendered against the owner or his property
15 on the lien foreclosure, he may deduct from any amount due
16 to the contractor the amount of the judgment and costs. If
17 the owner has paid the contractor in full he may recover
18 from the contractor any amount paid by the owner for which
19 the contractor was originally liable.

20

21 **29-4-102. Filing of lien statement; enforcement.**

22

1 Any person entitled may file a lien statement as provided
2 by W.S. 29-1-101 through ~~29-1-308~~29-1-317 and 29-2-101
3 through 29-2-109 and may enforce his lien in the same
4 manner.

5

6 **29-5-103. Lien statement to be filed; contents;**
7 **mistake in description not fatal; notice to purchaser or**
8 **owner.**

9

10 (b) In addition to the requirements of W.S. ~~29-1-~~
11 ~~301(a)~~29-1-314(a) this statement shall contain:

12

13 **29-7-103. Lien statement; additional contents; county**
14 **clerk to note lien on certificate of title.**

15

16 (a) A lien statement under W.S. 29-7-101 through 29-
17 7-106 shall provide in addition to the requirements of W.S.
18 ~~29-1-301(b)~~29-1-314(b) whether the lien claimant was in
19 possession of the property at the time the lien statement
20 was filed or the owner consented to the filing of the lien.
21 Notwithstanding W.S. ~~29-1-301(a)~~29-1-314(a), a feeder's
22 lien created pursuant to W.S. 29-7-101(a)(ii) shall be

1 filed in the office of the secretary of state together with
2 any applicable filing fees.

3

4 **29-8-102. Producer's liens.**

5

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

8

9 **41-5-111. Irrigation facility modification and**
10 **maintenance.**

11

12 (d) In order to have a perfected lien, a lien
13 claimant shall file with the county clerk a lien statement
14 that conforms to the requirements of W.S. ~~29-1-301~~29-1-
15 314, and shall notify the last known owner as provided in
16 W.S. ~~29-1-301~~29-1-314. The county clerk shall file and
17 index the statement as provided in W.S. ~~29-1-301~~29-1-314.
18 When so perfected, the lien may be enforced in the same
19 manner as provided in W.S. 29-4-101 and 29-4-102 and is
20 subject to the limitation in W.S. 29-2-109.

21

***** STAFF COMMENT *****

22

**The preceding 2 sections, W.S. 29-8-102(a) and 41-5-11(d) were
23 added, amending language to reflect changes made in this bill.**

24

1 for which required notices or filings have been sent under
2 title 29, chapters 1 and 2 prior to July 1, 2010, shall be
3 governed by the lien procedures in title 29 that existed
4 prior to the effective date of this act.

5

6 **Alternative 2:**

7 The provisions of this act shall apply to all projects
8 commenced on or after July 1, 2010. Any projects commenced
9 prior to July 1, 2010, shall be governed by the lien
10 procedures in title 29 that existed prior to July 1, 2010.

11

12 **Section 5.** This act is effective July 1, 2010.

13

14

(END)