

CONSTRUCTION LIEN ACT (EXCERPT)
Act 497 of 1980

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 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 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.