

CONSTRUCTION LIEN ACT (EXCERPT)
Act 497 of 1980

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.

(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.