

CHAPTER 412

(SB 44)

AN ACT relating to liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.365 is amended to read as follows:

- (1) A holder of a lien on real property, including a lien provided for in KRS 376.010, shall release the lien in the county clerk's office where the lien is recorded within thirty (30) days from the date of satisfaction.
- (2) A proceeding may be filed by any owner of real property or any party acquiring an interest in the real property in District Court or Circuit Court against a lienholder that violates subsection (1) of this section. A proceeding filed under this section shall be given precedence over other matters pending before the court.
- (3) Upon proof to the court of the lien being satisfied, the court shall enter a judgment releasing the lien. The judgment ~~shall~~may be with costs including a reasonable attorney's fee. ***If the court finds that the lienholder received written notice of its failure to release and lacked good cause for not releasing the lien,*** the lienholder ~~shall~~may be liable to the owner of the real property in the amount of one hundred dollars (\$100) per day for each day, ***beginning on the fifteenth day after receipt of the written notice, of the violation for which good cause did not exist***~~that the lienholder fails to release a lien after the entry of a judgment by the court~~.
- (4) A lienholder that ***continues to fail***~~violates subsection (1) of this section~~ ~~may be liable to the owner of the real property for one hundred dollars (\$100). A lienholder that fails~~ to release a satisfied real estate lien, ***without good cause,*** within forty-five (45) days from the date of ***written notice shall***~~satisfaction~~may be liable to the owner of the real property for an additional four hundred dollars (\$400) ***per day for each day for which good cause did not exist after the forty-fifth day from the date of written notice,*** for a total of five hundred dollars (\$500) ***per day for each day for which good cause did not exist after the forty-fifth day from the date of written notice.*** The lienholder ~~shall~~may also be liable for any actual expense including a reasonable attorney's fee incurred by the owner in securing the release of real property by such violation.
- (5) The former holder of a lien on real property shall send by regular mail a copy of the lien release to the property owner at his last known address within seven (7) days of the release. A former lienholder that violates this subsection shall be liable to the owner of the real property for fifty dollars (\$50) and any actual expense incurred by the owner in obtaining documentation of the lien release.
- (6) For the purposes of this section, "date of satisfaction" means that date of receipt by a holder of a lien on real property of a sum of money in the form of a certified check, cashier's check, wired transferred funds, or other form of payment satisfactory to the lienholder that is sufficient to pay the principal, interest, and other costs owing on the obligation that is secured by the lien on the property.
- (7) The provisions of this section shall not apply when a lienholder is deceased and the estate of the lienholder has not been settled.

- (8) *The state licensing agency, if applicable, or any holder of a lien on real property shall be notified of the disposition of any actions brought under this section against the lienholder.*
- (9) *The provisions of this Act shall be held and construed as ancillary and supplemental to any other remedy provided by law.*

Approved April 21, 2000

