

CHAPTER 66**(HB 171)**

AN ACT relating to liens.

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

Section 1. KRS 376.010 is amended to read as follows:

- (1) Any person who performs labor or furnishes materials, for the erection, altering, or repairing of a house or other structure or for any fixture or machinery therein, for the excavation of cellars, cisterns, vaults, wells or for the improvement in any manner of real property including the furnishing of agricultural lime, fertilizer, concrete pipe or drainage tile, crushed rock, gravel for roads or driveways, and materials used in the construction or maintenance of fences, by contract with, or by the written consent of, the owner, contractor, subcontractor, architect, or authorized agent, shall have a lien thereon, and upon the land upon which the improvements were made or on any interest the owner has therein, to secure the amount thereof with interest as provided in KRS 360.040 and costs. The lien on the land or improvements shall be superior to any mortgage or encumbrance created subsequent to the beginning of the labor or the furnishing of the materials, and the lien, if asserted as hereinafter provided, shall relate back and take effect from the time of the commencement of the labor or the furnishing of the materials. The lien shall not be for a greater amount in the aggregate than the contract price of the original contractor, and should the aggregate amount of the liens exceed the price agreed upon between the original contractor and the owner there shall be a pro rata distribution of the original contract price among the lienholders.
- (2) The lien shall not take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice, duly recorded or lodged for record according to law, unless the person claiming the prior lien shall, before the recording of the mortgage or other contract lien or conveyance, file in the office of the county clerk of the county wherein he has furnished or expects to furnish labor or materials, a statement showing that he has furnished or expects to furnish labor or materials, and the amount in full thereof. The lien shall not, as against the holder of a mortgage or other contract lien or conveyance, exceed the amount of the lien claimed or expected to be claimed as set forth in the statement. The statement shall, in other respects, be in the form prescribed by KRS 376.080.
- (3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section unless he notifies in writing the owner of the property to be held liable or his authorized agent, within seventy-five (75) days on claims amounting to less than \$1,000 and one hundred twenty (120) days on claims in excess of \$1,000 after the last item of material or labor is furnished, of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to his duly authorized agent within the county in which the property to be held liable is located.
- (4) No person who has not contracted directly with the owner or his authorized agent shall acquire a lien under this section on an owner-occupied single or double family dwelling, the appurtenances or additions thereto, or upon other improvements for agricultural or personal use to the real property or real property contiguous thereto and held by the same owner, upon which the owner-occupant's dwelling is located, unless he notifies in writing the owner of the property to be held liable or his authorized agent not more than *seventy-five*

(75)~~forty-five (45)~~ days after the last item of material or labor is furnished, of the delivery of the material or performance of labor and of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to his duly authorized agent. This notice is in lieu of the notice provided for in subsection (3). Notwithstanding the foregoing provisions of this subsection, the lien provided for under this section shall not be applicable to the extent that an owner-occupant of a single or double family dwelling or owner of other property as described in this subsection has, prior to receipt of the notice provided for in this subsection, paid the contractor, subcontractor, architect, or authorized agent for work performed or materials furnished prior to such payment. The contractor or subcontractor cannot be the authorized agent under this subsection. This subsection shall apply to the construction of single or double family homes constructed pursuant to a construction contract with a property owner and intended for use as the property owner's dwelling.

- (5) For purposes of this section, "labor" includes but is not limited to, all supplies and work done by teams, trucks, machinery, and mechanical equipment, whether the owner furnishes a driver or operator or not.
- (6) (a) "Supplies" includes small tools and equipment reasonably necessary in performing the work required to be done, including picks, shovels, sledge hammers, axes, pulleys, wire cables, ropes, and other similar items costing not more than fifty dollars (\$50) per item, and tires and tubes furnished for use on vehicles engaged in the performance of the work.
- (b) "Supplies" also includes the cost of labor, materials, and repair parts supplied or furnished for keeping all machinery and equipment used in the performance of the work in good operating condition; and shall include the agreed or reasonable rental price of equipment and machinery used in performing the work to be done:
 1. The lien for rental equipment or machinery shall not be more than the aggregate sum of six (6) months' rental, and the aggregate amount of such rental shall not exceed sixty percent (60%) of the agreed value of the machinery or equipment; and
 2. The liens for supplies as defined in this subsection are subordinate to the liens for labor, material, and supplies as defined in this section.

Approved March 26, 2002