

376.010 Mechanics' and materialman's liens -- Filing of statement of amount claimed -- Extent of lien -- Notice to owner, agent, or lessee.

- (1)
 - (a) 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, lessee, 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 or lessee has therein, to secure the amount thereof with interest as provided in KRS 360.040, and costs.
 - (b) When improvements to property are made pursuant to an agreement or contract with a lessee, the lessee shall not be deemed the authorized agent of the owner unless the owner has designated the lessee, in writing, as the owner's agent for purposes of entering into the agreement or contract.
 - (c) 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.
 - (d) 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)
 - (a) 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 where he or she has furnished or expects to furnish labor or materials, a statement showing that he or she has furnished or expects to furnish labor or materials, and the amount of the labor or materials in full.
 - (b) 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.
 - (c) The statement shall, in other respects, be in the form prescribed by KRS 376.080.
- (3)
 - (a) Any lien under this section shall only extend to the right, title, and interest of the person who contracts for the improvements as the right, title, and interest exist at the commencement of the improvements or as thereafter acquired in the real property. When improvements to property are made by a lessee in accordance with an agreement between the lessee and his or her lessor, the

lien shall also extend to the interest of the lessor.

- (b) When a lease agreement expressly provides that the interest of the lessor shall not be subject to liens for improvements made by the lessee, the lessee shall notify the contractor making any improvements of the provisions in the lease, and the knowing or willing failure of the lessee to provide this notice to the contractor shall render the contract between the lessee and the contractor voidable at the option of the contractor.
- (4) (a) A person who has not contracted directly with the owner, the owner's agent, or the lessee, if applicable, shall not acquire a lien under this section unless he or she notifies, in writing, the owner of the property to be held liable, the owner's authorized agent, or the lessee, if applicable, within seventy-five (75) days on claims amounting to less than one thousand dollars (\$1,000) and one hundred twenty (120) days on claims in excess of one thousand dollars (\$1,000) after the last item of material or labor is furnished, of his or her intention to hold the property liable and the amount for which he or she will claim a lien; and
- (b) 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 the owner's duly authorized agent within the county in which the property to be held liable is located.
- (5) (a) A person who has not contracted directly with the owner or the owner's authorized agent shall not 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 or she notifies in writing the owner of the property to be held liable or the owner's authorized agent not more than seventy-five (75) days after the last item of material or labor is furnished, of the delivery of the material or performance of labor and of his or her intention to hold the property liable and the amount for which he or she will claim a lien.
- (b) 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 the owner's duly authorized agent.
 - (c) The notice under this subsection is in lieu of the notice provided for in subsection (4) of this section.
 - (d) 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.
 - (e) The contractor or subcontractor cannot be the authorized agent under this subsection.
 - (f) 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.

- (6) 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.
- (7) As used in this section:
 - (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; and
 - (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.

Effective: June 29, 2023

History: Amended 2023 Ky. Acts ch. 177, sec. 4, effective June 29, 2023. -- Amended 2002 Ky. Acts ch. 66, sec. 1, effective July 15, 2002. -- Amended 1994 Ky. Acts ch. 167, sec. 1, effective July 15, 1994. -- Amended 1988 Ky. Acts ch. 259, sec. 1, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 385, sec. 1, effective July 13, 1984. -- Amended 1978 Ky. Acts ch. 384, sec. 501, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 173, sec. 1. -- Amended 1972 Ky. Acts ch. 191, sec. 1. - - Amended 1952 Ky. Acts ch. 9, sec. 1, effective June 19, 1952. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2463.

Legislative Research Commission Note (6/29/2023). 2023 Ky. Acts ch. 177, sec. 6, provides that the provisions of subsection (3) of this statute shall not apply to any lease or agreement entered into prior to June 29, 2023.