

SENATE BILL NO. 370—SENATOR SCHNEIDER

MARCH 16, 2001

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to mechanics' and materialmen's liens.
(BDR 9-971)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to liens; prohibiting the waiver or modification of rights relating to mechanics' and materialmen's liens except under certain circumstances; prohibiting certain provisions in a contract for a work of improvement; making various changes to provisions relating to mechanics' and materialmen's liens; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 108 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 26, inclusive, of this act.
3 **Sec. 2.** *As used in NRS 108.221 to 108.246, inclusive, and sections 2*
4 *to 26, inclusive, of this act, unless the context otherwise requires, the*
5 *words and terms defined in NRS 108.221 and sections 3 to 24, inclusive,*
6 *of this act have the meanings ascribed to them in those sections.*
7 **Sec. 3.** *“Agent of the owner” means every architect, builder,*
8 *contractor, engineer, geologist, land surveyor, lessee, miner,*
9 *subcontractor or other person having charge or control of the property,*
10 *improvement or work of improvement of the owner, or any part thereof.*
11 **Sec. 4.** *“Building” means a primary building or other*
12 *superstructure, together with all garages, outbuildings and other*
13 *structures appurtenant thereto.*
14 **Sec. 5.** *“Commencement of construction” means the date on which:*
15 1. *Work performed; or*
16 2. *Materials or equipment provided,*
17 *produces visible results which are sufficient to make reasonably apparent*
18 *from an inspection of the site that a work of improvement has*
19 *commenced.*



- 1 **Sec. 6.** *“Completion of the work of improvement” means:*
2 1. *The occupation or use by the owner, an agent of the owner or a*
3 *representative of the owner of the work of improvement, accompanied by*
4 *the cessation of all work on the work of improvement;*
5 2. *The acceptance by the owner, an agent of the owner or a*
6 *representative of the owner of the work of improvement, accompanied by*
7 *the cessation of work on the work of improvement; or*
8 3. *The cessation of all work on a work of improvement for 30*
9 *consecutive days.*
10 **Sec. 7.** *“Contract” means a written or oral agreement, including all*
11 *attachments and amendments thereto, for the provision of work,*
12 *materials or equipment for a work of improvement.*
13 **Sec. 8.** *“Disinterested owner” means an owner who did not*
14 *personally or through an agent of the owner, directly or indirectly,*
15 *request, require, authorize, consent to, allow or cause an improvement to*
16 *be constructed, altered or repaired upon the property of the owner.*
17 **Sec. 9.** *“Equipment” means tools, vehicles and machinery used in*
18 *the construction, alteration or repair of an improvement.*
19 **Sec. 10.** *“Improvement” means the development, enhancement or*
20 *addition to property, by the provision of work, materials or equipment.*
21 *The term includes, without limitation:*
22 1. *A building, railway, tramway, toll road, canal, water ditch, flume,*
23 *aqueduct, reservoir, bridge, fence, street, sidewalk, fixtures or other*
24 *structure or superstructure;*
25 2. *A mine or a shaft, tunnel, adit or other excavation, designed or*
26 *used to prospect, drain or work a mine; or*
27 3. *A system for irrigation, plants, sod or other landscaping.*
28 **Sec. 11.** *“Lien” means the statutory rights and security interest in*
29 *property or any improvements thereon provided to a lien claimant by*
30 *NRS 108.221 to 108.246, inclusive, and sections 2 to 26, inclusive, of this*
31 *act.*
32 **Sec. 12.** *“Lienable amount” means the amount of a lien to which a*
33 *lien claimant is entitled pursuant to subsection 1 of NRS 108.222.*
34 **Sec. 13.** *“Lien claimant” means any person who provides work,*
35 *material or equipment with a value of \$500 or more for the improvement*
36 *of the property or to be used in the construction, alteration or repair of*
37 *any improvement who is entitled to a lien on property pursuant to NRS*
38 *108.222. The term includes, without limitation, every architect, artisan,*
39 *builder, contractor, engineer, geologist, laborer, land surveyor, lessor of*
40 *equipment, materialman, miner, subcontractor or other person who*
41 *provides the work, material or equipment.*
42 **Sec. 14.** *“Material” means the substances used or consumed in the*
43 *improvement of property or the construction, alteration or repair of a*
44 *work of improvement.*
45 **Sec. 15.** 1. *“Owner” includes:*
46 (a) *The record owner or owners of property or of an improvement to*
47 *the property as evidenced by a conveyance or other instrument which*
48 *transfers that interest to him and is recorded in the office of the county*
49 *recorder in which the improvement or the property is located;*



- 1 (b) *The reputed owner or owners of the property or of an improvement*
2 *to the property;*
3 (c) *The owner or owners of the property or an improvement to the*
4 *property, as shown on the records of the county assessor for the county*
5 *where the property or improvement is located;*
6 (d) *The person or persons whose names appear as owner of the*
7 *property or an improvement to the property on the building permit; or*
8 (e) *A person who claims an interest in or possesses less than a fee*
9 *simple estate in the property or an improvement to the property.*
10 2. *The term "owner" does not include:*
11 (a) *A mortgagee;*
12 (b) *A trustee or beneficiary of a deed of trust; or*
13 (c) *The owner or holder of a lien encumbering the property or an*
14 *improvement to the property.*
15 **Sec. 16.** *"Notice of lien" means a notice recorded pursuant to NRS*
16 *108.226 to perfect a lien.*
17 **Sec. 17.** *"Prevailing lien claimant" means a lien claimant to whom*
18 *an amount is found due by a court on a notice of lien or a claim against*
19 *a surety bond.*
20 **Sec. 18.** *"Prime contract" means a contract between a prime*
21 *contractor and the owner of property about which the contract relates.*
22 **Sec. 19.** *"Prime contractor" means a person who contracts with an*
23 *owner of property to provide work, materials or equipment to be used for*
24 *the improvement of the property, or in the construction, alteration or*
25 *repair of a work of improvement.*
26 **Sec. 20.** *"Principal" means the person whose name appears as*
27 *principal on a surety bond.*
28 **Sec. 21.** *"Property" means the land, real property or mining claim*
29 *of an owner occupied by an improvement or for which an improvement*
30 *was provided, together with a convenient space on, around and about the*
31 *same, or so much as may be required for the convenient use and*
32 *occupation thereof.*
33 **Sec. 22.** *"Surety" means a corporation authorized to transact surety*
34 *business in this state pursuant to NRS 679A.030, who issues a surety*
35 *bond, and who has continuously maintained a rating of "A" or better by*
36 *Standard and Poor's Ratings Services or A.M. Best Company's ratings*
37 *for at least the 3 years immediately preceding the date of issuance of the*
38 *surety bond pursuant to NRS 108.2413 to 108.2425, inclusive.*
39 **Sec. 23.** *"Surety bond" means a bond issued by a surety for the*
40 *release of a notice of lien pursuant to NRS 108.2413 to 108.2425,*
41 *inclusive.*
42 **Sec. 24.** *"Work" means the labor and services provided for a work*
43 *of improvement, whether completed or partially completed, and includes*
44 *all labor and services provided by an architect, artisan, builder,*
45 *contractor, engineer, geologist, laborer, land surveyor, operator of*
46 *equipment, miner, subcontractor or other person providing labor or*
47 *services for the work of improvement.*



1 **Sec. 25.** 1. Except as otherwise provided in NRS 108.221 to
2 108.246, inclusive, and sections 2 to 26, inclusive, of this act, a person
3 may not waive or modify a right, obligation or liability set forth in the
4 provisions of NRS 108.221 to 108.246, inclusive, and sections 2 to 26,
5 inclusive, of this act.

6 2. A condition, stipulation or provision in a contract or other
7 agreement for the improvement of property or for the construction,
8 alteration or repair of a work of improvement in this state which attempts
9 to do any of the following is void:

10 (a) Require a lien claimant to waive rights provided by law to lien
11 claimants or to limit the rights provided to lien claimants, other than as
12 expressly provided in NRS 108.221 to 108.246, inclusive, and sections 2
13 to 26, inclusive, of this act;

14 (b) Relieve a person of an obligation or liability imposed by the
15 provisions of NRS 108.221 to 108.246, inclusive, and sections 2 to 26,
16 inclusive, of this act;

17 (c) Make the contract or other agreement subject to the laws of a state
18 other than this state;

19 (d) Require any litigation, arbitration or other process for dispute
20 resolution on disputes arising out of the contract or other agreement to
21 occur in a state other than this state; or

22 (e) Require a contractor or subcontractor to limit or waive a claim he
23 may otherwise possess for delay damages or an extension of time for
24 delays incurred, for any delay which was unreasonable under the
25 circumstances, not within the contemplation of the parties at the time the
26 contract was entered into, and for which he is not responsible.

27 **Sec. 26.** 1. Any term of a contract that attempts to waive or impair
28 the lien rights of a contractor, subcontractor or supplier is void. An
29 owner, contractor or subcontractor by any term of a contract, or
30 otherwise, may not obtain the waiver of, or impair the lien rights of, a
31 contractor, subcontractor or supplier, except as provided in this section.
32 Any written consent given by any lien claimant to waive or limit his lien
33 rights is unenforceable unless the lien claimant executes and delivers a
34 waiver and release in the form set forth in this section and the form is
35 signed by the lien claimant or his authorized agent, and, in the case of a
36 conditional waiver and release, if the lien claimant receives payment of
37 the amount identified in the conditional waiver and release.

38 2. An oral or written statement purporting to waive, release or
39 otherwise adversely affect the rights of a lien claimant is not enforceable
40 and does not create any estoppel or impairment of a lien unless it is
41 pursuant to a waiver and release prescribed by this section or the lien
42 claimant has actually received payment in full for such a lien claim.

43 3. This section does not affect the enforceability of either an accord
44 and satisfaction regarding a bona fide dispute or any agreement made in
45 settlement of an action pending in any court, provided the accord and
46 satisfaction or agreement and settlement make specific reference to the
47 lien rights waived or impaired and is signed by the lien claimant.



1 4. The waiver and release given by any lien claimant is
2 unenforceable unless it is in the following forms in the following
3 circumstances:

4 (a) Where the lien claimant is required to execute a waiver and
5 release in exchange for or to induce the payment of a progress payment
6 and the lien claimant is not in fact paid in exchange for the waiver and
7 release or a single payee check or joint payee check is given in exchange
8 for the waiver and release, the waiver and release must be in the
9 following form:

10
11 **CONDITIONAL WAIVER AND RELEASE**
12 **UPON PROGRESS PAYMENT**
13

14 *Property Name:*
15 *Property Location:*.....
16 *Undersigned's Customer:*.....
17 *Invoice/Payment Application Number:*
18 *Payment Amount:*.....
19 *Payment Period:*.....
20

21 *Upon receipt by the undersigned of a check in the above referenced*
22 *Payment Amount payable to the undersigned, and when the check has*
23 *been properly endorsed and has been paid by the bank on which it is*
24 *drawn, this document becomes effective to release and the undersigned*
25 *shall be deemed to waive any notice of lien, any private bond right, any*
26 *claim for payment and any rights under any similar ordinance, rule or*
27 *statute related to payment rights that the undersigned has on the above*
28 *described Property to the following extent:*

29 *This release covers a progress payment for all work, materials or*
30 *equipment furnished by the undersigned to the Property or to the*
31 *Undersigned's Customer, for only the Payment Amount or such portion*
32 *of the Payment Amount as the undersigned has actually paid, and does*
33 *not cover any retention withheld, any items, modifications or changes*
34 *pending approval, disputed items and claims, or items furnished or*
35 *invoiced after the Payment Period. Before any recipient of this document*
36 *relies on it, he should verify evidence of payment to the undersigned.*

37 *The undersigned warrants that he either has already paid or will use*
38 *the money he receives from this progress payment promptly to pay in full*
39 *all his laborers, subcontractors, materialmen and suppliers for all work,*
40 *materials or equipment that are the subject of this waiver and release.*
41

42 **DATED:**.....

43
44 *(Company Name)*

45
46 *By:*

47
48 *Its:*.....



(b) Where the lien claimant has been paid the full amount provided for in the progress payment, the waiver and release must be in the following form:

UNCONDITIONAL WAIVER AND RELEASE
UPON PROGRESS PAYMENT

Property Name:
Property Location:
Undersigned's Customer:
Invoice/Payment Application Number:
Payment Amount:
Payment Period:

The undersigned has been paid and has received a progress payment in the above referenced Payment Amount for all work, materials and equipment the undersigned furnished to his Customer for the above described Property and does hereby waive and release any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the undersigned has on the above described Property to the following extent:

This release covers a progress payment for all work, materials and equipment furnished by the undersigned to the Property or to the Undersigned's Customer, for only the Payment Amount or such portion of the Payment Amount as the undersigned has actually paid, and does not cover any retention withheld, any items, modifications or changes pending approval, disputed items and claims, or items furnished or invoiced after the Payment Period. Before any recipient of this document relies on it, he should verify evidence of payment to the undersigned.

The undersigned warrants that he either has already paid or will use the money he receives from this progress payment promptly to pay in full all his laborers, subcontractors, materialmen and suppliers for all work, materials or equipment that are the subject of this waiver and release.

DATED:

.....
(Company Name)

By:

Its:

(Each unconditional waiver and release must contain the following language, in type at least as large as the largest type otherwise on the document:)

Notice: This document waives rights unconditionally and states that you have been paid for giving up those rights. This document is enforceable against you if you sign it, even if you have not been paid the full Payment



1 Amount or in full for the Payment Period. If you have not been paid, use
2 a conditional release form.

3 (c) Where the lien claimant is required to execute a waiver and release
4 in exchange for or to induce payment of a final payment and the lien
5 claimant is not paid in exchange for the waiver and release or a single
6 payee check or joint payee check is given in exchange for the waiver and
7 release, the waiver and release must be in the following form:
8

9 **CONDITIONAL WAIVER AND RELEASE**
10 **UPON FINAL PAYMENT**

11
12 *Property Name:*
13 *Property Location:*.....
14 *Undersigned's Customer:*.....
15 *Invoice/Payment Application Number:*
16 *Payment Amount:*.....
17 *Amount of Disputed Claims:*.....
18 *Description of Disputed Claims:*.....
19

20 Upon receipt by the undersigned of a check in the above referenced
21 Payment Amount payable to the undersigned, and when the check has
22 been properly endorsed and has been paid by the bank on which it is
23 drawn, this document becomes effective to release and the undersigned
24 shall be deemed to waive any notice of lien, any private bond right, any
25 claim for payment and any rights under any similar ordinance, rule or
26 statute related to payment rights that the undersigned has on the above
27 described Property to the following extent:

28 This release covers the final payment to the undersigned for all work,
29 materials or equipment furnished by the undersigned to the Property or
30 to the Undersigned's Customer and does not cover payment for Disputed
31 Claims, if any. Before any recipient of this document relies on it, he
32 should verify evidence of payment to the undersigned.

33 The undersigned warrants that he either has already paid or will use
34 the money he receives from the final payment promptly to pay in full all
35 his laborers, subcontractors, materialmen and suppliers for all work,
36 materials or equipment that are the subject of this waiver and release.
37

38 **DATED:**.....

39
40 (Company Name)

41
42 **By:**

43
44 **Its:**.....
45

46 (d) Where the lien claimant has been paid the final payment, the
47 waiver and release must be in the following form:



UNCONDITIONAL WAIVER AND RELEASE
UPON FINAL PAYMENT

Property Name:
Property Location:.....
Undersigned's Customer:.....
Invoice/Payment Application Number:
Amount of Disputed Claims:.....
Description of Disputed Claims:.....

The undersigned has been paid in full for all work, materials and equipment the undersigned furnished to his Customer for the above described Property and does hereby waive and release any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the undersigned has on the above described Property, except for the payment of Disputed Claims, if any.

The undersigned warrants that he either has already paid or will use the money he receives from this final payment promptly to pay in full all his laborers, subcontractors, materialmen and suppliers for all work, materials and equipment that are the subject of this waiver and release.

DATED:.....

.....
(Company Name)

By:

Its:.....

(Each unconditional waiver and release must contain the following language, in type at least as large as the largest type otherwise on the document:)

Notice: This document waives rights unconditionally and states that you have been paid for giving up those rights. This document is enforceable against you if you sign it, even if you have not been paid. If you have not been paid, use a conditional release form.

Sec. 27. NRS 108.221 is hereby amended to read as follows:
108.221 ~~{As used in NRS 108.221 to 108.246, inclusive, unless the context otherwise requires, "work"~~ "Work of improvement" ~~for "improvement"~~ means the entire structure or scheme of improvement as a whole ~~{~~ , including, without limitation, all work, materials and equipment to be used in or for the construction, alteration or repair of the property or any improvement, whether under multiple prime contracts or a single prime contract, except as follows:

1. If a scheme of improvement consists of the construction of two or more separate buildings and each building is constructed upon a separate lot or parcel of land and pursuant to a separate prime contract



1 *for only that building, then each building shall be deemed a separate*
2 *work of improvement; and*

3 2. *If the improvement of the site is provided for in a prime contract*
4 *that is separate from all prime contracts for the construction of one or*
5 *more buildings on the property, the improvement of the site shall be*
6 *deemed a separate work of improvement from the construction of the*
7 *buildings and the commencement of construction of the improvement of*
8 *the site does not constitute the commencement of the construction of the*
9 *buildings. As used in this subsection, "improvement of the site" means*
10 *the development, enhancement or addition to the property, by providing*
11 *any of the following preparatory to the construction of a building:*

12 (a) *The demolition or removal of improvements, trees or other*
13 *vegetation;*

14 (b) *The drilling of test holes;*

15 (c) *Grading, grubbing, filling or excavating;*

16 (d) *Constructing or installing sewers or other public utilities; or*

17 (e) *Constructing a vault, cellar or room under sidewalks or making*
18 *improvements to the sidewalks in front of or adjoining the property.*

19 **Sec. 28.** NRS 108.222 is hereby amended to read as follows:

20 108.222 1. Except as otherwise provided in subsection 2, a person
21 who performs ~~labor~~ *work* upon or furnishes material ~~of the~~ *or*
22 *equipment with a* value of \$500 or more, to be used in the construction,
23 alteration or repair of any ~~building, or other superstructure, railway,~~
24 ~~tramway, toll road, canal, water ditch, flume, aqueduct or reservoir, bridge,~~
25 ~~fence or any other structure,~~ *work of improvement*, has a lien upon the
26 ~~premises and any building, structure~~ *property, work of improvement* and
27 ~~any improvement thereon~~ *on the property* for:

28 (a) If the parties entered into a contract, the unpaid balance of the price
29 agreed upon for ~~the~~ *the work performed or material furnished or rented,*
30 *as the case may be, by each respectively, whether performed or furnished*
31 *at the request of the owner of the building or improvement, or at the*
32 *request of his agent; or*

33 (b) ~~In absence of~~ *If a specific price for some or all the work, material*
34 *or equipment is not set forth in* a contract, an amount equal to the fair
35 market value of ~~the labor~~ *the work* performed or material furnished or
36 rented, as the case may be, by each respectively, including a reasonable
37 allowance for overhead and a profit, whether performed or furnished at the
38 ~~instance~~ *request* of the owner of the building or other improvement, or at
39 the ~~instance~~ *request* of his agent.

40 2. If a *contractor's* license is required for the work, only a contractor
41 licensed pursuant to chapter 624 of NRS, an employee of such a contractor
42 or a person who furnishes material *or equipment* to be used in the project
43 may have a lien as described in subsection 1.

44 ~~3. All miners, laborers and others who perform labor to the amount of~~
45 ~~\$500 or more in or upon any mine, or upon any shaft, tunnel, adit or other~~
46 ~~excavation, designed or used to prospect, drain or work the mine, and all~~
47 ~~persons who furnish any timber or other material, of the value of \$500 or~~
48 ~~more, to be used in or about a mine, whether performed or furnished at the~~



1 instance of the owner of the mine or his agent, have, and may each
2 respectively claim and hold, a lien upon that mine for:

3 — (a) If the parties entered into a contract, the unpaid balance of the price
4 agreed upon for; or

5 — (b) In absence of a contract, an amount equal to the fair market value of;
6 the labor so performed or material furnished, including a reasonable
7 allowance for overhead and a profit.

8 — 4. Every contractor, subcontractor, engineer, land surveyor, geologist,
9 architect, builder or other person having charge or control of any mining
10 claim, or any part thereof, or of the construction, alteration or repair, either
11 in whole or in part, of any building or other improvement, as these terms
12 are used in subsection 1, shall be held to be the agent of the owner, for the
13 purposes of NRS 108.221 to 108.246, inclusive.}

14 **Sec. 29.** NRS 108.225 is hereby amended to read as follows:

15 108.225 1. The liens provided for in NRS 108.221 to 108.246,
16 inclusive, *and sections 2 to 26, inclusive, of this act* are preferred to:

17 (a) Any lien, mortgage or other encumbrance which may have attached
18 *to the property* after the ~~time when the building, improvement or structure~~
19 ~~was commenced, work done, or materials were commenced to be~~
20 ~~furnished.}~~ *commencement of construction of a work of improvement.*

21 (b) Any lien, mortgage or other encumbrance of which the ~~lienholder}~~
22 *lien claimant* had no notice *of* and which was unrecorded *against the*
23 *property* at the ~~time the building, improvement or structure was~~
24 ~~commenced, work done, or the materials were commenced to be~~
25 ~~furnished.~~

26 For the purposes of this subsection, “work done” does not include any
27 work commenced before on site construction has started.

28 — 2. Except as otherwise provided in subsection 3, ~~every}~~
29 *commencement of construction of a work of improvement.*

30 2. Every mortgage or encumbrance imposed upon, or conveyance
31 made of, property affected by the liens provided for in NRS 108.221 to
32 108.246, inclusive, ~~{between the time when the building, improvement,~~
33 ~~structure or work thereon was commenced, or the materials thereof were~~
34 ~~commenced to be furnished, and the expiration of the time fixed in NRS~~
35 ~~108.221 to 108.246, inclusive, in which liens therefor may be recorded,~~
36 ~~whatever the terms of payment may be.}~~ *and sections 2 to 26, inclusive, of*
37 *this act after the commencement of construction of a work of*
38 *improvement* are subordinate and subject to ~~{the liens in full authorized in}~~
39 *all liens that are properly perfected pursuant to* NRS 108.221 to 108.246,
40 inclusive, *and sections 2 to 26, inclusive, of this act* regardless of the date
41 of recording the *notices of* liens.

42 {3. If any improvement at the site is provided for in a contract that is
43 separate from any contract for the construction of a building or other
44 structure, the improvement at the site shall be deemed a separate work of
45 improvement and the commencement thereof does not constitute the
46 commencement of the construction of the building or other structure. As
47 used in this subsection, “improvement at the site” means:

48 — (a) The demolition or removal of improvements, trees or other
49 vegetation from;



1 ~~—(b) The drilling of test holes in;~~
2 ~~—(c) Grading, filling or otherwise improving; or~~
3 ~~—(d) Constructing or installing sewers or other public utilities~~
4 ~~on;~~
5 ~~any lot or tract of land or the street, highway or sidewalk in front of or~~
6 ~~adjoining any lot or tract of land. The term includes the construction of any~~
7 ~~vaults, cellars or rooms under the sidewalks or making improvements to~~
8 ~~the sidewalks in front of or adjoining any tract of land.]~~

9 **Sec. 30.** NRS 108.226 is hereby amended to read as follows:

10 108.226 1. ~~Every person claiming the benefit of NRS 108.221 to~~
11 ~~108.246, inclusive,]~~ *To perfect his lien, a lien claimant* must record his
12 notice of lien *in the office of the county recorder of the county where the*
13 *property or any improvement or some part thereof is located,* in the form
14 provided in subsection ~~[5:]~~ 2:

15 (a) Within 90 days after the *date on which the latest of the following*
16 *occurs:*

17 (1) *The completion of the work of improvement;*

18 ~~[(b) Within 90 days after the]~~

19 (2) *The last delivery of material or furnishing of equipment* by the
20 lien claimant ~~]; or~~

21 ~~—(c) Within 90 days after the]~~ *for the work of improvement; or*

22 (3) *The last performance of labor work* by the lien claimant ~~];~~
23 ~~whichever is later.~~

24 ~~—2. The time within which to perfect the lien by recording the notice of~~
25 ~~lien is shortened if a]~~ *for the work of improvement; or*

26 (b) *Within 40 days after the recording of a notice of completion, if the*
27 notice of completion is recorded ~~[in a timely]~~ and served in the manner
28 *required* pursuant to NRS 108.228 . ~~]; in which event the notice of lien~~
29 ~~must be recorded within 40 days after the recording of the notice of~~
30 ~~completion.~~

31 ~~—3. Any one of the following acts or events is equivalent to “completion~~
32 ~~of the work of improvement” for all purposes of NRS 108.221 to 108.246,~~
33 ~~inclusive:~~

34 ~~—(a) The occupation or use of a building, improvement or structure by the~~
35 ~~owner, his agent or his representative and accompanied by cessation of~~
36 ~~labor thereon.~~

37 ~~—(b) The acceptance by the owner, his agent or his representative of the~~
38 ~~building, improvement or structure.~~

39 ~~—(c) The cessation from labor for 30 days upon any building,~~
40 ~~improvement or structure, or the alteration, addition to or repair thereof.~~

41 ~~—(d) The recording of the notice of completion provided in NRS 108.228.~~

42 ~~—4. For the purposes of this section, if a work of improvement consists~~
43 ~~of the construction of more than one separate building and each building is~~
44 ~~constructed pursuant to:~~

45 ~~—(a) A separate contract, each building shall be deemed a separate work~~
46 ~~of improvement. The time within which to perfect the lien by recording the~~
47 ~~notice of lien pursuant to subsection 1 commences to run upon the~~
48 ~~completion of each separate building; or~~



~~—(b) A single contract, the time within which to perfect the lien by recording the notice of lien pursuant to subsection 1 commences to run upon the completion of all the buildings constructed pursuant to that contract.~~

~~As used in this subsection, “separate building” means one structure of a work of improvement and any garages or other outbuildings appurtenant thereto.~~

~~—5.] 2. The notice of {mechanic’s lien must be recorded in the office of the county recorder of the county where the property or some part thereof is situated and} lien must contain:~~

(a) A statement of ~~{this demand}~~ *the lienable amount* after deducting all just credits and offsets.

(b) The name of the owner , ~~{or reputed owner}~~ if known.

(c) The name of the person by whom he was employed or to whom he furnished the material.

(d) A *brief* statement of the terms ~~{, time given and conditions}~~ *of payment* of his contract.

(e) A description of the property to be charged with the *notice of* lien sufficient for identification.

~~{6. The claim}~~

3. The notice of lien must be verified by the oath of the *lien* claimant or some other person. The ~~{claim}~~ *notice of lien* need not be acknowledged to be recorded.

~~{7.}~~ *4.* It is unlawful for a person knowingly to make a false statement in or relating to the recording of a notice of lien pursuant to the provisions of this section. A person who violates this subsection is guilty of a gross misdemeanor and shall be punished by a fine of not less than \$5,000 nor more than \$10,000.

5. A notice of lien may be in substantially the following form:

NOTICE OF CLAIM OF LIEN

The undersigned claims a lien upon the property described in this notice for work, materials or equipment furnished for the improvement of the property:

1. The amount of the lien, after deducting all just credits and offsets, is: \$.....

2. The name of the owner, if known, of the property is:

3. The name of the person by whom the lien claimant was employed or to whom the lien claimant furnished work, materials or equipment is:

4. A brief statement of the terms, time given and conditions of the lien claimant’s contract is:

5. A description of the property is:

.....
(Print Name of Lien Claimant)



1 By:.....
2 (Authorized Signature)

3 STATE OF)
4) ss.
5 COUNTY OF)
6

7 (print name), being first duly sworn on oath
8 according to law, deposes and says:
9 I have read the foregoing Notice of Claim of Lien, know the contents
10 thereof and state that the same are true of my own personal knowledge,
11 except those matters stated upon information and belief, and, as to those
12 matters, I believe them to be true.
13

14
15 Subscribed and sworn to before me
16 this day of the month of of the year
17

18
19 Notary Public in and for
20 the County and State

21 Sec. 31. NRS 108.227 is hereby amended to read as follows:
22 108.227 1. In addition to the requirements of NRS 108.226, a copy
23 of the ~~claim~~ notice of lien must be served upon the ~~record~~ owner of the
24 property within 30 days after recording the notice of lien, in one of the
25 following ways:

26 (a) By personally delivering a copy of the notice of lien to the ~~record~~
27 owner personally;

28 ~~— (b) If he is absent from his place of residence, or from his usual place of~~
29 ~~business, by leaving a copy with some person of suitable age and discretion~~
30 ~~at either place and mailing a copy addressed to the record owner at his~~
31 ~~place of residence or place of business; or~~

32 ~~— (c) If his owner or resident agent of the owner;~~

33 (b) By mailing a copy of the notice of lien by certified mail return
34 receipt requested to the owner at his place of residence or his usual place
35 of business or to the resident agent of the owner at the address of the
36 resident agent; or

37 (c) If the place of residence or business of the owner and the address of
38 the resident agent of the owner, if applicable, cannot be ~~ascertained, or a~~
39 ~~person of suitable age or discretion cannot be found there,~~ determined, by:

40 (1) Fixing a copy of the notice of lien in a conspicuous place on the
41 property;

42 (2) Delivering a copy of the notice of lien to a person there residing,
43 if such a person can be found; and

44 (3) Mailing a copy of the notice of lien addressed to the ~~record~~
45 owner at ~~the~~ :

46 (I) The place where the property is ~~situated.~~

47 ~~— 2. Failure located;~~

48 (II) The address of the owner as identified in the deed; or



1 (III) *The address identified in the records of the office of the*
2 *county assessor.*

3 2. *If there is more than one owner, failure to serve a copy of the*
4 ~~{claim}~~ *notice of lien* upon a particular ~~{record}~~ owner does not invalidate a
5 ~~{claim based on a valid service}~~ *notice of lien if properly served* upon
6 another ~~{record}~~ owner.

7 3. ~~{As used in this section, "record owner" means any person who~~
8 ~~holds an interest in real property or any improvement thereon evidenced by~~
9 ~~a conveyance or other instrument which transfers that interest to him and is~~
10 ~~recorded in the office of the county recorder of the county in which the real~~
11 ~~property is located, but does not include:~~

12 ~~— (a) A mortgagee;~~

13 ~~— (b) A trustee under, or a beneficiary of, a deed of trust; or~~

14 ~~— (c) The owner or holder of a lien encumbering real property or any~~
15 ~~improvement thereon.~~ *Each subcontractor who participates in the*

16 *construction, improvement, alteration or repair of a work of*
17 *improvement shall deliver a copy of each notice of lien required by NRS*
18 *108.226 to the prime contractor. The failure of a subcontractor to deliver*
19 *the notice to the prime contractor is a ground for disciplinary*
20 *proceedings pursuant to chapter 624 of NRS.*

21 Sec. 32. NRS 108.2275 is hereby amended to read as follows:

22 108.2275 1. ~~{The}~~ *Provided an order has not been entered pursuant*
23 *to NRS 108.2419 releasing the lien of a lien claimant upon the posting of*
24 *a surety bond, the* debtor of the lien claimant or a party in interest in the
25 ~~{premises}~~ *property* subject to the *notice of* lien who believes the notice of
26 lien is frivolous and was made without reasonable cause, or that the
27 amount of the *notice of* lien is excessive, may apply by motion to the
28 district court for the county where the property or some part thereof is
29 ~~{situated}~~ *located* for an order directing the lien claimant to appear before
30 the court to show cause why the relief requested should not be granted.

31 2. The motion must ~~{set}~~ :

32 (a) *Set forth in detail the legal and factual* grounds upon which relief is
33 requested ; and ~~{must be}~~

34 (b) *Be supported by* ~~{the affidavit of}~~ :

35 (1) *A notarized affidavit signed by* the applicant ~~{or his attorney}~~
36 setting forth ~~{a concise statement of}~~ *in detail* the facts upon which the
37 motion is based ~~{}~~ ; and

38 (2) *Documentary evidence, if any.*

39 3. If the court issues an order for a hearing, the applicant shall serve
40 notice of the application and order of the court on the lien claimant within
41 3 days after the court issues the order. The court shall conduct the hearing
42 within not less than ~~{10}~~ *15* days or more than ~~{20}~~ *30* days after the court
43 issues the order ~~{}~~.

44 ~~— 2.} for a hearing.~~

45 4. The order for a hearing must include a statement that if the lien
46 claimant fails to appear at the time and place noted, the *notice of* lien will
47 be released with prejudice and the lien claimant will be ordered to pay the
48 *reasonable* costs ~~{requested by}~~ the applicant ~~{, including reasonable~~
49 ~~attorney's fees.~~



1 ~~3.1~~ *incurs in bringing the motion, including reasonable attorney's fees.*
2 **5.** If, at the time the application is filed, an action to foreclose the
3 *notice of* lien has not been filed, the clerk of the court shall assign a
4 number to the application and obtain from the applicant a filing fee of \$85.
5 If an action has been filed to foreclose the *notice of* lien before the
6 application was filed pursuant to this section, the application must be made
7 a part of the action to foreclose the *notice of* lien.

8 ~~4.1~~ **6.** If, after a hearing on the matter, the court determines that ~~1-~~
9 ~~(a) The~~ *the applicant:*
10 *(a) Has proven that the notice of* lien is frivolous and was made
11 without reasonable cause, the court may make an order releasing the lien
12 and awarding costs and reasonable attorney's fees to the applicant ~~1-~~
13 ~~(b) The~~ *for bringing the motion.*
14 *(b) Has proven that the* amount of the *notice of* lien is excessive, the
15 court may make an order reducing the *notice of* lien to an amount deemed
16 appropriate by the court and awarding costs and reasonable attorney's fees
17 to the applicant ~~1-~~
18 ~~(c) The~~ *for bringing the motion.*
19 *(c) Has not proven the notice of* lien is ~~not~~ frivolous and was made
20 with reasonable cause ~~and~~ *or* that the amount of the *notice of* lien is ~~not~~
21 excessive, the court may make an order awarding costs and reasonable
22 attorney's fees to the lien claimant ~~1-~~
23 ~~5.1~~ *for defending the motion.*

24 **7.** Proceedings conducted pursuant to this section do not affect any
25 other rights and remedies otherwise available to the parties.

26 ~~6.1~~ **8.** An appeal may be taken ~~by either party~~ from an order made
27 pursuant to subsection ~~4.1~~ **6** *on the same grounds as an appeal from a*
28 *grant or denial of a motion for summary judgment.*

29 ~~7.1~~ **9.** If an order releasing or reducing a *notice of* lien is entered by
30 the court, and the order is not stayed, the ~~lien claimant shall, within 21~~
31 *applicant may, within 5* days after the order is entered, record a certified
32 copy of the order in the office of the county recorder of the county where
33 the property or some part thereof is ~~situated~~ *located*. The recording of a
34 certified copy of the order releasing or reducing a *notice of* lien is notice to
35 any interested party that the *notice of* lien has been released or reduced.

36 **10.** *A notice of lien is frivolous and made without reasonable cause*
37 *when, in accordance with the standards applicable to a motion for*
38 *summary judgment, and viewed in the light most favorable to the lien*
39 *claimant, it is clear beyond legitimate dispute that the notice of lien is*
40 *baseless in both fact and law and without a good faith argument for the*
41 *extension of law thereto.*

42 **Sec. 33.** NRS 108.228 is hereby amended to read as follows:
43 108.228 1. The owner may record a notice of completion after ~~1-~~
44 ~~(a) The~~ *the* completion of ~~any~~ *the* work of improvement. ~~1- or~~
45 ~~(b) There has been a cessation from labor thereon for a period of 30~~
46 ~~days.~~

47 2. The notice of completion must be recorded in the office of the
48 county recorder of the county where the property is ~~situated~~ *located* and
49 must set forth:



1 (a) The date ~~when the work of improvement was completed, or the date~~
2 ~~on which cessation from labor occurred first and the period of its duration.~~
3 *of completion of the work of improvement.*

4 (b) The owner's name or owners' names, as the case may be, the
5 address of the owner or addresses of the owners, as the case may be, and
6 the nature of the title, if any, of the person signing the notice.

7 (c) A description of the property sufficient for identification.

8 (d) The name of the *prime* contractor ~~or~~ *or prime contractors*, if any.

9 3. The notice must be verified by the owner or by some other person
10 on his behalf. The notice need not be acknowledged to be recorded.

11 4. Upon recording the notice pursuant to this section, the owner shall,
12 within 10 days after the notice is recorded, deliver a copy of the notice by
13 certified mail, to:

14 (a) ~~Any general~~ *Each prime* contractor with whom the owner
15 contracted for *all or any part of* the work of improvement.

16 (b) ~~Any person~~ *Each lien claimant* who, before the notice was
17 recorded pursuant to this section, submitted a request to the owner to
18 receive the notice.

19 *5. The failure of the owner to deliver a copy of the notice of*
20 *completion in the time and manner as provided in this section renders*
21 *the notice of completion ineffective with respect to each prime contractor*
22 *and lien claimant.*

23 **Sec. 34.** NRS 108.229 is hereby amended to read as follows:

24 108.229 1. *At any time before the trial of any action to foreclose a*
25 *lien, a lien claimant may record an amended notice of lien to increase,*
26 *reduce, correct or clarify his notice of lien. The lien claimant shall serve*
27 *the owner of the property with an amended notice of lien in the same*
28 *manner as required for serving a notice of lien pursuant to NRS 108.227*
29 *and within 30 days after recording the amended notice of lien. A*
30 *variance between a notice of lien and an amended notice of lien must not*
31 *defeat the lien and shall not be deemed material unless the variance:*

32 (a) *Results from fraud or is made intentionally; or*

33 (b) *Misleads an adverse party to his prejudice, but then only with*
34 *respect to the adverse party who was prejudiced.*

35 2. Upon the trial of any action or suit to foreclose ~~such lien as~~ *a lien,*
36 *a variance between the lien and the proof shall must not* defeat the lien
37 ~~or~~ *and shall not* be deemed material unless the ~~same results~~ *variance:*

38 (a) *Results from fraud or is made intentionally, or has misled; or*

39 (b) *Misleads the adverse party to his prejudice, but then only with*
40 *respect to the adverse party who was prejudiced.*

41 *In* all cases of immaterial variance the ~~claim~~ *notice* of lien may be
42 amended, by amendment duly recorded, to conform to the proof.

43 ~~2. No~~

44 3. *An* error or mistake in the name of the owner ~~or reputed owner~~
45 contained in any ~~claim~~ *notice* of lien ~~shall~~ *must not* be held to defeat
46 the lien, unless a correction of the *notice of* lien in this particular would
47 prejudice the rights of an innocent bona fide purchaser or encumbrancer for
48 value ~~or~~



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~~3.1~~, but then only with respect to the bona fide purchaser or encumbrancer for value who is prejudiced.

4. Upon the trial, ~~however,~~ if it ~~shall appear~~ appears that an error or mistake has been made in the name of the owner ~~for reputed owner,~~ or that the wrong person has been named as owner ~~for reputed owner~~ in any ~~such claim~~ notice of lien, the court shall order an amended ~~claim~~ notice of lien to be recorded with the county recorder where the original ~~claim~~ notice of lien was recorded ~~;~~ and shall issue to the person who is so made to appear to be the original ~~for reputed~~ owner a notice directing ~~such~~ the person or persons to be and appear before the court within the same time as is provided by Nevada Rules of Civil Procedure for the appearance in other actions after the service of summons, which notice ~~shall~~ must be served in all respects as a summons is required to be served, and to show cause why:

(a) He should not be substituted ~~;~~ in the action as the correct owner, in the ~~claim~~ notice of lien and in the suit, in lieu of the person so made defendant and alleged to be owner ~~for reputed owner~~ by mistake.

(b) He should not be bound by the judgment or decree of the court. Such proceedings ~~shall~~ must be had therein as though the party so cited to appear had been an original party defendant in the action or suit, and originally named in the ~~claim~~ notice of lien as owner, ~~for reputed owner,~~ and the rights of all parties ~~shall~~ must thereupon be fully adjudicated.

~~4.1~~ 5. A notice of lien which contains therein the description of the ~~real~~ property supplied by and set forth in the notice of completion recorded pursuant to NRS 108.228 ~~shall,~~ must, for all purposes, be sufficient as a description of the actual ~~real~~ property upon which the work ~~for labor~~ was performed or materials or equipment were supplied ~~;~~, and amendment of the notice of lien ~~claim~~ or amendment of the pleading filed by the lien claimant in a foreclosure action, or both, may be made to state the correct description, and ~~such~~ the corrected description ~~shall~~ must relate back to the time of recording ~~such~~ the notice of lien, ~~claim,~~ unless a correction of the notice of lien in this particular would prejudice the rights of an innocent bona fide purchaser or encumbrancer for value ~~;~~, but then only with respect to the bona fide purchaser or encumbrancer for value who is prejudiced.

Sec. 35. NRS 108.231 is hereby amended to read as follows:

108.231 1. In every case in which ~~one claim~~ a notice of lien is recorded against a work of improvement which includes two or more separate buildings ~~;~~ or mining claims ~~for other improvements~~ and each separate building or mining claim is located upon a separate lot or parcel of land owned by the same person, at the time of recording the notice of lien, the ~~person recording such claim must at the same time~~ lien claimant must designate the lienable amount due to him on each ~~of such buildings, mining claims or other improvements; otherwise the lien of such claim is postponed to other liens.~~ building or mining claim. For purposes of this subsection, the designation of a lien claimant's lienable amount against two or more buildings or mining claims must not invalidate or reduce a notice of lien as against the buildings or mining claims, if the



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1 *designation was estimated by the lien claimant in good faith or was based*
2 *upon a pro rata division of the total lienable amount.*

3 2. The lien of ~~such claimant does not extend beyond~~ *a lien claimant*
4 *only applies to the lienable amount designated ~~+~~ in the notice of lien,*
5 *plus all amounts that may be awarded by the court pursuant to NRS*
6 *108.237, as against other creditors having liens by judgment or otherwise,*
7 *upon ~~either of such buildings or other improvements, or upon the land~~*
8 *~~upon which the same are constructed.~~ the buildings or mining claims.*
9 *The lienable amount chargeable to the interest of the owner in each*
10 *building or mining claim must be the total amount of the lien claimant's*
11 *notice of lien, without regard to the proportionate amount designated to*
12 *each separate building or mining claim in the lien claimant's notice of*
13 *lien, plus all amounts that may be awarded by the court pursuant to NRS*
14 *108.237, but upon the trial thereof, the court may, where it deems it*
15 *equitable to do so, distribute the lien equitably as between the several*
16 *buildings and mining claims involved.*

17 3. *If a lien claimant fails to designate in his notice of lien the amount*
18 *due to him on each separate building or mining claim, the lien*
19 *claimant's notice of lien must be postponed to the notices of lien of other*
20 *lien claimants and other encumbrancers for value who have designated*
21 *the amount due on each building or mining claim but must not be*
22 *postponed to any rights or interests of the owner.*

23 **Sec. 36.** NRS 108.232 is hereby amended to read as follows:

24 108.232 The recorder *in the county in which property that is subject*
25 *to a lien is located* must record the ~~claim~~ *notice of lien* in a book kept by
26 him for that purpose, which record must be indexed as deeds and other
27 conveyances are required by law to be indexed, and for which he may
28 receive the same fees as are allowed by law for recording deeds and other
29 instruments.

30 **Sec. 37.** NRS 108.233 is hereby amended to read as follows:

31 108.233 1. ~~No~~ *A* lien provided for in NRS 108.221 to 108.246,
32 inclusive, ~~binds any building, mining claim, improvement or structure~~
33 *and sections 2 to 26, inclusive, of this act must not bind the property*
34 *subject to the lien* for a ~~longer~~ *period longer* than 6 months after ~~such~~
35 ~~lien has been~~ *the date on which the notice of lien was* recorded, unless:

36 (a) Proceedings are commenced in a proper court within that time to
37 enforce the same; or

38 (b) The time to commence the action is extended by a written
39 instrument signed by the ~~lienor~~ *lien claimant* and by a person or persons
40 in interest in the property subject to the lien, in which event, and as to only
41 that person or those persons in interest signing the agreement, the time is
42 extended, ~~+~~ but no extension ~~shall be~~ *is* valid unless in writing and
43 recorded in the county recorder's office in which the *notice of* lien is
44 recorded and unless the extension agreement is recorded within ~~such~~ *the*
45 6-month period ~~+~~ ~~and such~~, *and the* extension agreement, to be recorded,
46 must be acknowledged as required by law for the acknowledgment of
47 deeds. An action may be commenced within ~~such~~ *the* extended time only
48 ~~as to~~ *against* the persons signing the extension agreement and only as
49 their interests *in the property* are affected, and upon the lapse of the time



1 specified in the extension agreement, an action may not thereafter be
2 commenced, nor may a second extension be given.

3 2. For all purposes, a ~~mechanic's lien of record~~ *notice of lien* shall be
4 deemed to have expired as a lien *against the property* after the lapse of the
5 6-month period provided in subsection 1, and ~~such recording shall~~ *the*
6 *recording of a notice of lien must* not provide actual or constructive notice
7 after the lapse of ~~such~~ *the* 6-month period and as a lien on the ~~real~~
8 property referred to in the ~~recorded~~ notice of lien, unless, ~~prior to~~ *before*
9 the lapse of ~~such~~ *the* 6-month period ~~the~~ *an* extension agreement has
10 been recorded, in which event, the lien ~~shall~~ *will only* continue as a lien
11 on the interests of those persons signing the extension for the period
12 specified in the extension. ~~and for no longer period.~~ *An extension must*
13 *not be given for a period in excess of 1 year beyond the date on which the*
14 *notice of lien is recorded.*

15 3. If there are other ~~claims~~ *notices of lien* outstanding against the
16 property, ~~no extension shall~~ *an extension must not* be given upon ~~the~~ *a*
17 *notice of* lien which will tend to delay or postpone the collection of other
18 ~~claims~~ *liens evidenced by a notice of lien* or encumbrances against the
19 property. ~~and no extension shall be given for a period in excess of 1 year~~
20 ~~beyond the recording of the lien.~~

21 **Sec. 38.** NRS 108.234 is hereby amended to read as follows:

22 108.234 ~~Every building or other improvement mentioned in NRS~~
23 ~~108.222,~~

24 1. *Except as otherwise provided in subsection 2, every improvement*
25 *constructed, altered or repaired* upon ~~any lands with the knowledge of~~
26 ~~the owner or the person having or claiming any interest therein, shall~~
27 *property must* be held to have been constructed, *altered or repaired* at the
28 instance of ~~such owner or person~~ *the owner* having or claiming any
29 interest therein, and the interest owned or claimed ~~shall~~ *must* be subject
30 to any *notice of* lien recorded in accordance with the provisions of NRS
31 108.221 to 108.246, inclusive, ~~unless such owner or person having or~~
32 ~~claiming an interest therein shall,~~ *and sections 2 to 26, inclusive, of this*
33 *act.*

34 2. *The interest of a disinterested owner in any improvement and the*
35 *property upon which an improvement is constructed, altered or repaired*
36 *is not subject to a notice of lien if the disinterested owner,* within 3 days
37 after he ~~has obtained~~ *first obtains* knowledge of the construction,
38 alteration or repair, or the intended construction, alteration or repair, ~~give~~
39 *gives* notice that he will not be responsible for ~~such~~ *the* improvement by
40 ~~filing~~ *recording* a notice in writing to that effect with the county recorder
41 of the county where the ~~land or building is situated,~~ *property is located,*
42 and, in the instance of ~~:-~~

43 ~~:-~~ *a disinterested owner who is:*

44 (a) A lessor, the notice of ~~lien~~ nonresponsibility shall be deemed
45 timely ~~filed if the same has been filed~~ *recorded if it is recorded* within 3
46 days immediately following the ~~execution~~ *effective date* of the lease ~~by~~
47 ~~all parties as to that construction, alteration or repair, or intended~~
48 ~~construction, alteration or repair, known to the lessor at~~ *or* the time of the
49 execution of the lease by all parties ~~:-~~



~~2.] , whichever occurs first; or~~

(b) An optionor, the notice of ~~lien~~ nonresponsibility shall be deemed timely filed if the same has been filed within 3 days immediately following the ~~execution of the agreement permitting entry upon the real property by all parties as to that construction, alteration, repair, or intended construction, alteration, repair or other work known to the optionor at the time of the execution of the agreement by all parties.~~ *date on which the option is exercised in writing.*

3. *Each notice of nonresponsibility recorded pursuant to this section must identify:*

(a) *The name and address of the owner;*

(b) *The location of the improvement and the property upon which the improvement is or will be constructed, altered or repaired;*

(c) *The nature and extent of the disinterested owner's interest in the improvement and the property upon which the improvement is or will be constructed, altered or repaired; and*

(d) *The date on which the disinterested owner first learned of the construction, alteration or repair of the improvement that is the subject of the notice of nonresponsibility.*

Sec. 39. NRS 108.235 is hereby amended to read as follows:

108.235 1. ~~The contractor shall be entitled to~~ *A prime contractor:*

(a) *May record and recover* ~~the~~ *upon a notice of lien*, ~~recorded by him, only such~~ *a lienable* amount as may be due to him ~~according to the terms of his contract, after deducting all claims of other parties~~, *plus all amounts that may be awarded to him by the court pursuant to NRS 108.237; and*

(b) *Upon receipt of the amount described in paragraph (a), shall pay all liens for the work* ~~done and material furnished,~~ *equipment or materials which were furnished to him,* as provided in NRS 108.221 to 108.246, inclusive ~~the~~, *and sections 2 to 26, inclusive, of this act.*

2. In all cases where a *prime contractor has been paid for the work, materials or equipment which are the subject of a notice of lien* ~~is~~ recorded under NRS 108.221 to 108.246, inclusive, ~~for work done or materials furnished to any contractor,~~ *and sections 2 to 26, inclusive, of this act,* he shall defend *the owner in* any action brought thereupon at his own expense. ~~During the pendency of the action,~~

3. *Except as otherwise provided in this subsection, if a lien claimant records a notice of lien for the work, equipment or materials furnished to the prime contractor, the owner may withhold from the prime contractor the amount of money for which* ~~such~~ *the notice of lien is* ~~filed,~~ *recorded. If the lien claimant's notice of lien resulted from the owner's failure to pay the prime contractor for the lien claimant's work, materials or equipment, the owner shall not withhold the amount set forth in the notice of lien from the prime contractor for which the prime contractor has tendered a release of the lien of the lien claimant.* In case of judgment against the owner or his property ~~upon~~ *which is the subject of* the lien, the owner ~~shall be entitled to~~ *may* deduct, from any amount due or to become due by him to the *prime* contractor, the amount ~~of the judgment and costs. If the amount of the judgment and costs exceeds the amount due~~



1 ~~by him to the contractor, or if the owner has settled with the contractor,~~
2 *justly paid by the owner to the lien claimant for which the prime*
3 *contractor was liable, and the owner ~~{shall be entitled to}~~ may* recover
4 back from the *prime* contractor any amount so paid by the owner in excess
5 of the ~~{contract price, and for which the contractor was originally the party~~
6 ~~liable.}~~ *amount the court has found that the owner owes to the prime*
7 *contractor.*

8 **Sec. 40.** NRS 108.236 is hereby amended to read as follows:

9 108.236 1. In every case in which different *notices of* liens are
10 asserted against any property, the court, in the judgment, must declare the
11 rank of each lien ~~{,}~~ *claimant*, or class of ~~{liens,}~~ *lien claimants*, which
12 must be in the following order:

13 (a) First: All ~~{labor}~~ *work* whether performed at the instance or
14 direction of the owner, *the* subcontractor or the ~~{original}~~ *prime* contractor.

15 (b) Second: Material suppliers ~~{,}~~

16 ~~Third: The subcontractors, architects, land surveyors, geologists and~~
17 ~~engineers, if such architects, land surveyors, geologists and engineers}~~ *and*
18 *lessors of equipment.*

19 (c) *Third: All other lien claimants who* have performed their ~~{services,}~~
20 *work*, in whole or in part, under contract with the ~~{general contractor.~~

21 ~~Fourth: The original contractors, architects, land surveyors, geologists~~
22 ~~and engineers, if such architects, land surveyors, geologists and engineers~~
23 ~~have not performed their services, in whole or in part, under contract with~~
24 ~~the general contractor, and all persons other than original contractors,~~
25 ~~subcontractors, architects, land surveyors, geologists and engineers.}~~ *prime*
26 *contractor or any subcontractor.*

27 (d) *Fourth: All other lien claimants.*

28 2. The proceeds of the sale of the property must be applied to each lien
29 ~~{,}~~ *claimant*, or class of ~~{liens,}~~ *lien claimants*, in the order of its rank.

30 **Sec. 41.** NRS 108.237 is hereby amended to read as follows:

31 108.237 1. ~~{Any number of persons claiming liens may join in the~~
32 ~~same action. When separate actions are commenced the court may~~
33 ~~consolidate them.}~~ *The court shall award to a prevailing lien claimant,*
34 *whether on its lien or on a surety bond, the following:*

35 (a) *The lienable amount found due to the lien claimant by the court;*

36 (b) *The cost of preparing and filing the lien claim, including, without*
37 *limitation, attorney's fees, if any;*

38 (c) *The costs of the proceedings;*

39 (d) *Attorney's fees and costs for representation of the lien claimant in*
40 *the proceedings;*

41 (e) *Interest; and*

42 (f) *Any other amounts as the court may find to be justly due and*
43 *owing to the lien claimant.*

44 2. The court ~~{may also allow}~~ *shall calculate interest for purposes of*
45 *this section based upon:*

46 (a) *The rate of interest agreed upon in the lien claimant's contract; or*

47 (b) *If a rate of interest is not provided in the lien claimant's contract,*

48 interest at a rate equal to the prime rate at the largest bank in Nevada, as
49 ascertained by the commissioner of financial institutions, on January 1 or



1 July 1, as the case may be, immediately preceding the date of judgment,
2 plus 2 percent, on the amount of the lien found payable. ~~The interest is~~
3 ~~payable from the date that the payment is found to have been due, and the~~
4 ~~court may allow, as part of the costs, the money paid for recording the~~
5 ~~lien.~~ The rate of interest must be adjusted accordingly on each January 1
6 and July 1 thereafter until the amount of the lien is paid.

7 ~~{3. The court shall also allow to the prevailing party reasonable~~
8 ~~attorney's fees for the preparation of the lien and for representation of the~~
9 ~~lien claimant in the action.}~~

10 *Interest is payable from the date on which the payment is found to have*
11 *been due, as determined by the court.*

12 **Sec. 42.** NRS 108.238 is hereby amended to read as follows:

13 108.238 Nothing contained in NRS 108.221 to 108.246, inclusive, *and*
14 *sections 2 to 26, inclusive, of this act* shall be construed to impair or affect
15 the right of ~~{any person}~~ *a lien claimant* to whom any debt may be due for
16 work ~~{done or material}~~ *, materials or equipment* furnished to maintain a
17 ~~{personal}~~ *civil* action to recover ~~{such}~~ *that* debt against the person liable
18 therefor ~~{+}~~ *or to submit any controversy arising under a contract to*
19 *arbitration to recover that amount.*

20 **Sec. 43.** NRS 108.239 is hereby amended to read as follows:

21 108.239 1. ~~{Liens}~~ *A notice of lien* may be enforced by an action in
22 any court of competent jurisdiction, on setting out in the complaint the
23 particulars of the demand, with a description of the ~~{premises}~~ *property*
24 to be charged with the lien.

25 2. At the time of filing the complaint and issuing the summons, the
26 ~~{plaintiff}~~ *lien claimant* shall:

27 (a) File a notice of pendency of the action in the manner provided in
28 NRS 14.010; and

29 (b) Cause a notice *of foreclosure* to be published at least once a week
30 for 3 successive weeks, in one newspaper published in the county, and if
31 there is no newspaper published in the county, then in such mode as the
32 court may determine, notifying all persons holding or claiming *notices of*
33 *liens* pursuant to the provisions of NRS 108.221 to 108.246, inclusive, *and*
34 *sections 2 to 26, inclusive, of this act* on the ~~{premises}~~ *property* to file
35 with the clerk and serve on the ~~{plaintiff}~~ *lien claimant* and also on the
36 defendant, if the defendant is within the state or is represented by counsel,
37 written statements of the facts constituting their liens, together with the
38 dates and amounts thereof. ~~{The statements must be filed}~~

39 3. *All persons holding or claiming a notice of lien may join a lien*
40 *claimant's action by filing a statement of facts* within 10 days after the
41 last publication of the notice ~~{The plaintiff}~~ *of foreclosure. Any number*
42 *of persons claiming liens may join in the same action if they timely file a*
43 *statement of facts in the lien claimant's action. The lien claimant* and
44 other parties adversely interested must be allowed ~~{5}~~ *20* days to answer
45 the statements.

46 ~~{3-}~~ 4. If it appears from the records of the county recorder that there
47 are other ~~{lien-claims}~~ *notices of liens* recorded against the same
48 ~~{premises}~~ *property* at the time of the commencement of the action, the
49 ~~{plaintiff}~~ *lien claimant* shall, in addition to and after the initial publication



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1 of the notice *of foreclosure* as provided in paragraph (b) of subsection 2,
2 mail to those other lien claimants, by registered or certified mail, or deliver
3 in person a copy of the notice *of foreclosure* as published.

4 ~~14.1~~ 5. At the time of any change in the venue of the action, the
5 ~~plaintiff~~ *lien claimant* shall file a notice of pendency of the action, in the
6 manner provided in NRS 14.010, and include in the notice the court and
7 county to which the action is changed.

8 ~~15.1~~ 6. *When separate actions are commenced by lien claimants to*
9 *foreclose on their respective notices of lien, the court may consolidate all*
10 *the actions.*

11 7. The court shall enter judgment according to the right of the parties,
12 and shall, by decree, proceed to hear and determine the claims in a
13 summary way, or may, if it be the district court, refer the claims to a
14 *special* master to ascertain and report upon the liens and the amount justly
15 due thereon. No consequential damages may be recovered in an action
16 pursuant to this section. All liens not so exhibited shall be deemed to be
17 waived in favor of those which are so exhibited.

18 ~~16.1~~ 8. *Upon petition by a lien claimant for a preferential trial*
19 *setting:*

20 (a) *The court shall give preference in setting a date for the trial of an*
21 *action brought pursuant to this section; and*

22 (b) *If a lien action is designated as complex by the court, the court*
23 *may take into account the rights and claims of all lien claimants in*
24 *setting a date for the preferential trial.*

25 9. *If the lienable amount of a lien claimant's lien is the subject of*
26 *binding arbitration:*

27 (a) *The court may, at the request of a party to the arbitration, stay the*
28 *lien claimant's action to foreclose the lien pending the outcome of the*
29 *binding arbitration. If the foreclosure on the lien involves the rights of*
30 *other lien claimants or persons whose claims are not the subject of the*
31 *binding arbitration, the court may stay the lien claimant's foreclosure*
32 *proceeding only upon terms that are just and which afford the lien*
33 *claimant a fair opportunity to protect his lien rights and priorities with*
34 *respect to other lien claimants and persons.*

35 (b) *Upon the granting of an award by the arbitrator, any party to the*
36 *arbitration may seek an order from the court in the action to foreclose on*
37 *the lien confirming or adopting the award and determining the lienable*
38 *amount of the lien claimant's lien in accordance with the order, if any.*
39 *Upon determining the lienable amount, the court shall enter a judgment*
40 *or decree for the lienable amount, plus all amounts that may be awarded*
41 *by the court to the lien claimant pursuant to NRS 108.237, and the court*
42 *may include as part of the lien all costs and attorney's fees awarded to*
43 *the lien claimant by the arbitrator and all costs and attorney's fees*
44 *incurred by the lien claimant pertaining to any application or motion to*
45 *confirm, adopt, modify or correct the award of the arbitrator. A judgment*
46 *or decree entered by the court pursuant to this subsection may be*
47 *enforced against the property as provided in subsections 10, 11 and 12.*

48 10. On ascertaining the whole amount of the liens with which the
49 ~~premises are~~ *property is* justly chargeable, as provided in NRS 108.221 to



1 108.246, inclusive, *and sections 2 to 26, inclusive, of this act*, the court
2 shall cause the ~~{premises}~~ property to be sold in satisfaction of ~~{the}~~ all
3 liens and *the* costs ~~{, including costs of suit,}~~ *of sale, including all*
4 *amounts awarded to all lien claimants pursuant to NRS 108.237*, and any
5 party in whose favor judgment may be rendered may cause the ~~{premises}~~
6 *property* to be sold within the time and in the manner provided for sales on
7 execution, issued out of any district court, for the sale of real property.

8 ~~{7-}~~ 11. If the proceeds of sale, after the payment of *the* costs ~~{,}~~ *of*
9 *sale*, are not sufficient to satisfy ~~{the whole amount of the}~~ all liens *to be*
10 included in the decree of sale, *including all amounts awarded to all lien*
11 *claimants pursuant to NRS 108.237*, the proceeds must be apportioned
12 according to the right of the ~~{several parties,}~~ *various lien claimants*. If the
13 proceeds of the sale amount to more than the sum of ~~{the}~~ all liens and the
14 cost of sale, the remainder must be paid over to the owner of the property.

15 ~~{8-}~~ 12. Each party whose claim is not satisfied in the manner
16 provided in this section is entitled to personal judgment for the residue
17 against the party legally liable for it if that person has been personally
18 summoned or has appeared in the action.

19 **Sec. 44.** NRS 108.2413 is hereby amended to read as follows:

20 108.2413 A ~~{mechanic's lien of record upon real property}~~ *notice of*
21 *lien* may be released upon the posting of a surety bond in the manner
22 provided in NRS 108.2415 to 108.2425, inclusive.

23 **Sec. 45.** NRS 108.2415 is hereby amended to read as follows:

24 108.2415 The ~~{debtor of the lien claimant or a party in interest in the~~
25 ~~premises subject to the lien must obtain a surety bond executed by the}~~
26 debtor of the lien claimant or a party in interest in the ~~{premises}~~ *property*
27 subject to the lien, as principal, and ~~{executed by}~~ a corporation authorized
28 to transact surety business in this state, as surety, *shall execute a surety*
29 *bond* in ~~{substantially}~~ the following form:

30
31 (Title of court and cause, if action has been commenced)

32
33 WHEREAS, (name of ~~{owner, contractor, or other~~
34 ~~person disputing lien}~~ *principal*) desires to give a bond for releasing the
35 following described ~~{real}~~ property from that certain ~~{claim of mechanic's}~~
36 *notice of* lien in the sum of \$..... recorded (month) (day)
37 (year) in the office of the recorder in (name of county
38 where the ~~{real}~~ property is ~~{situated,}~~ *located*):

39
40 (legal description)

41
42 NOW, THEREFORE, the undersigned principal and surety do hereby
43 obligate themselves to the *lien* claimant named in the ~~{mechanic's}~~ *notice*
44 *of* lien,, (name of *lien* claimant) under the conditions
45 prescribed by NRS 108.2413 to 108.2425, inclusive, in the sum of
46 \$..... (1 1/2 x claim), from which sum they will pay the *lien* claimant
47 ~~{such}~~ *that* amount as a court of competent jurisdiction may adjudge to
48 have been secured by his lien, ~~{with interest, costs and attorney's fees,}~~
49 *including the total amount awarded pursuant to NRS 108.237.*



1 IN TESTIMONY WHEREOF, the principal and surety have executed this
2 bond at, Nevada, on the day of the month of
3 of the year

4
5
6
7 (Signature of Principal)
8 (SURETY CORPORATION)
9 BY
10 (Its Attorney in Fact)

11 STATE OF NEVADA }
12 } ss.
13 COUNTY OF }

14 On (month) (day) (year) before me, the undersigned, a notary
15 public of this county and state, personally appeared
16 who acknowledged that he executed the foregoing instrument as principal
17 for the purposes therein mentioned and also personally appeared
18 known (or satisfactorily proved) to me to be the
19 attorney in fact of the ~~corporation~~ *surety* that executed the foregoing
20 instrument, known to me to be the person who executed that instrument on
21 behalf of the ~~corporation~~ *surety* therein named, and he acknowledged to
22 me that ~~that corporation~~ *the surety* executed the foregoing instrument.

23
24
25 (Notary Public in and for
26 the County and State)

27 **Sec. 46.** NRS 108.2417 is hereby amended to read as follows:
28 108.2417 1. A petition for the release of a ~~mechanic's~~ *notice of*
29 lien must be filed in the district court *in the county in which the property*
30 *is located* and set forth:

31 (a) The title of the cause, thus: "In the matter of the petition of
32 (name of petitioner) for release of ~~mechanic's~~ *notice*
33 *of* lien of (name of ~~mechanic's~~ lien claimant) upon
34 posting surety bond."

35 (b) An allegation of the purchase of by payment of the premium for the
36 bond, and the dates of purchase and payment. *A copy of the receipt for*
37 *payment of the premium for the bond must be attached to the petition.*

38 (c) An allegation incorporating ~~any~~ *by* reference a true copy of the
39 bond, which copy must be attached to the petition.

40 (d) The name or names of the owner ~~or reputed owners~~ of the ~~land~~
41 *property* subject to the *notice of* lien.

42 (e) A description of the ~~real~~ property subject to the *notice of* lien, and
43 the book and document number of the *notice of* lien as given by the *county*
44 recorder's office ~~of~~ *of the county in which the property is located.*

45 (f) A prayer for an order releasing the *notice of* lien.

46 2. The petitioner shall obtain an order from a judge of the district court
47 setting forth the time and date of the hearing on the petition, which time
48 and date must be at least ~~15~~ *15* days after the date of the order and not
49 more than ~~30~~ *30* days after the date of the order.



1 3. A copy of the petition and a copy of the order must be served on the
2 lien claimant at least 2 days ~~before the date set for the hearing,~~ *after the*
3 *court issues the order* and *must be* served in the manner provided by law
4 for service of summons.

5 **Sec. 47.** NRS 108.2419 is hereby amended to read as follows:

6 108.2419 1. Upon the hearing, the court shall enter its order
7 releasing the ~~mechanic's~~ *notice of* lien upon the petitioner's ~~filing~~ :

8 (a) *Filing* in open court the original bond ~~and introducing~~ *which*
9 *must be in the form required by NRS 108.2415; and*

10 (b) *Introducing* in evidence a receipt for payment of the premium.

11 2. The entry of the order by the court must refer to the property which
12 is the subject of the *notice of* lien and the *notice of* lien itself, by document
13 number and book number, and must recite that the *notice of* lien is released
14 of record for all purposes to the same extent as if released of record by the
15 ~~lienor~~ *lien claimant*.

16 3. Upon entry of the order, the lien is released of record in its entirety
17 and for all purposes and the ~~real~~ property, the subject of the lien, released
18 from the encumbrances of the *notice of* lien.

19 4. There is no appeal from the entry of the order and upon entry the
20 order is final for all purposes.

21 **Sec. 48.** NRS 108.2421 is hereby amended to read as follows:

22 108.2421 1. The lien claimant is entitled to bring an action against
23 ~~the lien claimant's debtor and to join therein~~ , *or if an action has been*
24 *commenced, the lien claimant is entitled to join in the pending action*, the
25 *principal and* surety on the bond ~~and the lien claimant's debtor~~. A
26 judgment for ~~the~~ *a lien* claimant on the bond may not be made against the
27 property. ~~The rights of the lien claimant include and the court may award~~
28 ~~to him in that action:~~

29 —(a) The amount found due to the lien claimant by the court;

30 —(b) The cost of preparing and filing the lien claim, including attorney's
31 fees, if any;

32 —(c) The costs of the proceedings;

33 —(d) Attorney's fees for representation of the lien claimant in the
34 proceedings; and

35 —(e) Interest at a rate established pursuant to NRS 99.040 from the date
36 found by the court that the sum was due.

37 ~~2. Proceedings pursuant to subsection 1 are entitled to priority of~~
38 ~~hearing second only to criminal hearings. The plaintiff~~

39 2. *At any time after the filing of a joint case conference report*
40 *pursuant to Rule 16.1 of the Nevada Rules of Civil Procedure, or, if the*
41 *case is designated by the court as complex litigation, after the approval of*
42 *the initial case management order by the court, each lien claimant* in the
43 action may serve upon the adverse party a "demand for ~~30 day setting,~~ *in*
44 *the proper form,* *a preferential trial setting*" and file the demand with the
45 clerk of the court. Upon filing, the clerk of the court shall, before the
46 Friday after the demand is filed, vacate a case or cases in a department of
47 the court and set the lien claimant's case for hearing, on a day or days
48 certain, to be heard within ~~30~~ *60* days after the filing of the "demand for
49 ~~30 day~~ *a preferential trial* setting." Only one such preferential setting



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1 need be given by the court, unless the hearing date is vacated without
2 stipulation of counsel for the ~~plaintiff~~ *lien claimant* in writing. If the
3 hearing date is vacated without that stipulation, upon service and filing, a
4 new preferential *trial* setting must be given.

5 *3. A lien claimant shall, at the time of making his demand for a*
6 *preferential trial, and each other party to the preferential trial shall,*
7 *within 20 days after the lien claimant's service of the demand, serve upon*
8 *all parties to the preferential trial the following documents and*
9 *information:*

10 *(a) A copy of all documents upon which the party intends to rely at the*
11 *time of the trial;*

12 *(b) A list of witnesses whom the party intends to call at the time of the*
13 *trial which must include for each witness:*

14 *(1) The name of the witness;*

15 *(2) The company identification and title of the witness; and*

16 *(3) A brief summary of the expected testimony of the witness;*

17 *(c) Any supplemental discovery responses as required by the Nevada*
18 *Rules of Civil Procedure;*

19 *(d) The identity of each person whom the party expects to call as an*
20 *expert witness at the trial, together with a statement of the substance of*
21 *the facts and opinions to which the expert witness is expected to testify*
22 *and a summary of the grounds for each opinion;*

23 *(e) Any expert reports not previously disclosed; and*

24 *(f) A detailed summary of all claims, offsets and defenses that the*
25 *party intends to rely upon at trial.*

26 *4. Within 20 days after receipt of an opposing party's identification*
27 *of an expert witness, a party who desires to do so must identify each*
28 *person whom the party expects to call as a rebuttal expert witness at trial,*
29 *and must provide a statement of the substance of the facts and opinions*
30 *to which the rebuttal expert witness is expected to testify and a summary*
31 *of the grounds for each opinion.*

32 *5. A prevailing lien claimant on a claim against a bond must be*
33 *awarded the lienable amount plus the total amount that may be awarded*
34 *by the court pursuant to NRS 108.237.*

35 **Sec. 49.** NRS 108.2423 is hereby amended to read as follows:

36 108.2423 1. By entering into a bond given pursuant to NRS
37 108.2415, the surety submits himself to the jurisdiction of the court in
38 which the bond is filed in the proceeding or release of the lien, and the
39 surety irrevocably appoints the clerk of that court as its agent upon whom
40 any papers affecting its liability on the bond may be served. ~~Its~~ *The*
41 *liability of the surety* may be enforced on motion without necessity of an
42 independent action. The motion and such notice of motion as the court
43 prescribes may be served on the clerk of the court, who shall forthwith mail
44 copies to the surety if his address is known.

45 2. The motion described in subsection 1 must not be instituted until
46 ~~the lapse of~~ 30 days ~~following~~ *after:*

47 *(a) If a notice of appeal from the judgment is not filed,* the giving of
48 notice of entry of judgment in the action against the lien claimant's debtor,
49 ~~if no notice of appeal from the judgment is filed, nor may the motion be~~



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1 ~~instituted until the lapse of 30 days following~~ *or the giving of notice of*
2 *entry of judgment in an action against the principal and surety on the*
3 *bond, if the lien claimant's debtor was not joined therein; or*

4 *(b) If an appeal has been taken from the judgment,* the filing of the
5 remittitur from the supreme court. ~~[- if an appeal has been taken from the~~
6 ~~judgment.]~~

7 **Sec. 50.** NRS 108.2425 is hereby amended to read as follows:

8 108.2425 1. The lien claimant may, within ~~[2]~~ *15* days after the
9 service of a copy of the petition and a copy of the bond attached thereto,
10 file with the clerk of the court in the action a notice excepting to the
11 sufficiency of the surety on the bond, and shall, at the same time and
12 together with that notice, file an affidavit setting forth the grounds and
13 basis of the exceptions to the surety, and shall serve a copy of the notice
14 and a copy of the affidavit upon the attorney or the petitioner ~~[on the same~~
15 ~~date as]~~ *within 2 days after* the date of filing. A hearing must be had upon
16 the justification of the surety at the same time as that set for the hearing on
17 the petition for the order to release the *notice of* lien.

18 2. *If, during the time a bond is posted pursuant to NRS 108.2415 to*
19 *108.2425, inclusive, the surety becomes unauthorized to transact surety*
20 *business in this state pursuant to NRS 679A.030, or should the surety's*
21 *rating with Standard and Poor's Ratings Services or A.M. Best Company*
22 *be downgraded to lower than an "A" rating, or if good cause otherwise*
23 *exists therefor, a lien claimant* ~~[fails to file and serve the notice and~~
24 ~~affidavit within 2 days after the service of the petition for release of the~~
25 ~~lien, he shall be deemed to have waived all objection to the justification~~
26 ~~and sufficiency of the surety.]~~ *or other person having an interest in the*
27 *bond may apply to the district court in a pending action or commence an*
28 *action if none is pending for an order to require additional security, or to*
29 *change, substitute or add sureties, or to enforce or change any other*
30 *matter affecting the security provided by the bond. This section does not*
31 *authorize or require the reduction of any bond to an amount less than*
32 *1.5 times the amount of the lien claimant's notice of lien. If the court*
33 *finds that the amount of the bond is insufficient to pay the total amount*
34 *that may be awarded by the court pursuant to NRS 108.237, the court*
35 *shall increase the amount of the bond to 1.5 times that amount. Any*
36 *surety who posts or consents to the posting of a surety bond shall remain*
37 *fully liable on the bond regardless of the payment or nonpayment of any*
38 *bond premium.*

39 **Sec. 51.** NRS 108.243 is hereby amended to read as follows:

40 108.243 1. Any *notice of* lien may be assigned in the same manner
41 as any other chose in action after it has been perfected by recording.

42 2. ~~[No]~~ *An* assignment of a lien ~~[prior to recording shall]~~ *before*
43 *recording will not* be effective until written notice of the assignment has
44 been given to the owner by the assignee. ~~[Any such notice shall]~~ *The*
45 *notice will* be sufficient if delivered in person or mailed by certified mail to
46 the ~~[person named as owner in the building permit]~~ *owner.* After such
47 notice the assignee may perfect the lien in his own name.

48 3. ~~[Two]~~ *One* or more lien claimants of the same class may assign
49 their *notices of* lien ~~[claims]~~ by written assignment, signed by each



1 assignor, to any other person or lien claimant of the same class, and the
2 assignee may commence and prosecute the action upon all of the *notices of*
3 lien ~~{claims}~~ in his own name ~~{}~~ *or in the name of the original lien*
4 *claimant*.

5 4. In the event that a claim for which a lien may be filed is assigned
6 before it is perfected, such *an* assignment ~~{shall}~~ *must* not discharge or
7 defeat the right to perfect ~~{such}~~ *the* lien, if ~~{such}~~ *the* claim is reassigned
8 to the lien claimant, and thereafter ~~{such lien claim}~~ *the lien* is timely
9 perfected.

10 **Sec. 52.** NRS 108.2433 is hereby amended to read as follows:

11 108.2433 1. Except as otherwise provided in subsection 2, a *notice*
12 *of* lien ~~{of record upon real}~~ *upon the* property provided for in NRS
13 108.221 to 108.246, inclusive, *and sections 2 to 26, inclusive, of this act*
14 may be discharged by an entry on the margin of the record thereof, signed
15 by the ~~{lienor}~~ *lien claimant* or his personal representative or assignee in
16 the presence of the recorder or his deputy, acknowledging the satisfaction
17 of or value received for the *notice of* lien and the debt secured thereby. The
18 recorder or his deputy shall subscribe the entry as witness. The entry has
19 the same effect as a discharge or release of the *notice of* lien acknowledged
20 and recorded as provided by law. The recorder shall properly index each
21 marginal discharge.

22 2. If the *notice of* lien has been recorded by a microfilm or other
23 photographic process, a marginal release may not be used and an
24 acknowledged discharge or release of the *notice of* lien must be recorded.

25 3. If the recorder or his deputy is presented with a certificate executed
26 by the ~~{lienor}~~ *lien claimant* or his personal representative or assignee,
27 specifying that the *notice of* lien has been paid or otherwise satisfied or
28 discharged, the recorder or his deputy shall discharge the *notice of* lien
29 upon the record.

30 **Sec. 53.** NRS 108.2437 is hereby amended to read as follows:

31 108.2437 1. As soon as practicable, but not later than 10 days after a
32 *notice of* lien ~~{of record upon real}~~ *upon the* property pursuant to NRS
33 108.221 to 108.246, inclusive, *and sections 2 to 26, inclusive, of this act* is
34 *fully* satisfied or discharged, the ~~{lienor}~~ *lien claimant* shall cause to be
35 recorded a discharge or release of the *notice of* lien in substantially the
36 following form:

37
38 DISCHARGE OR RELEASE OF *NOTICE OF LIEN*

39
40 NOTICE IS HEREBY GIVEN THAT:

41 The undersigned did, on the day of the month of of the year
42, record in Book, as Document No., in the office of the
43 county recorder of County, Nevada, its Notice of Lien, or has
44 otherwise given notice of his intention to hold ~~{and claim}~~ a lien upon the
45 following described property ~~{}~~ *or improvements*, owned or purportedly
46 owned by, ~~{situated}~~ *located* in the County of, State of
47 Nevada, to wit:



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(Legal Description or Address of the Property ~~{} or Improvements~~)

NOW, THEREFORE, for valuable consideration the undersigned does release, satisfy and discharge ~~the claim or~~ *his notice of* lien on the property *or improvements* described above by reason of ~~such~~ *this* Notice of Lien . ~~or by reason of the work and labor on, or materials furnished for, that property.~~

.....
(Signature of ~~Lienor~~) *Lien Claimant*)

2. If the ~~Lienor~~ *lien claimant* fails to comply with the provisions of subsection 1, he is liable in a civil action to the owner of the ~~real~~ property, his heirs or assigns for any actual damages caused by his failure to comply with those provisions or \$100, whichever is greater, and for a reasonable attorney's fee and the costs of bringing the action.

Sec. 54. NRS 108.244 is hereby amended to read as follows:

108.244 A lien claimant or assignee of a lien claimant or claimants may not file a complaint for foreclosure of his ~~mechanic's~~ *notice of* lien or the assigned ~~mechanic's~~ *notice of* lien or ~~mechanics' liens~~ *notices of* *lien* until 30 days have expired immediately following the filing of his ~~mechanic's~~ *notice of* lien or following the filing of the assigned ~~mechanic's~~ *notice of* lien or the last of the assigned ~~mechanics' liens~~ *notices of* *lien*. This provision ~~shall~~ *does* not apply to nor prohibit the filing of any statement of *fact constituting a* lien or statements of *fact constituting a* lien in an already filed action for foreclosure of ~~mechanic's~~ *a notice of* lien and to comply with the provisions of NRS 108.239.

Sec. 55. NRS 108.245 is hereby amended to read as follows:

108.245 1. Except as otherwise provided in subsection 5, every ~~person, firm, partnership, corporation or other legal entity,~~ *lien claimant*, other than one who performs only labor, who claims the benefit of NRS 108.221 to 108.246, inclusive, *and sections 2 to 26, inclusive, of this act* shall ~~within 31 days after the first delivery of material or performance of work or services under his contract,~~ deliver in person or by certified mail to the owner ~~or reputed owner of the property or to the person whose name appears as owner on the building permit, if any, for~~ *of* the improvement a *preliminary* notice *of right to lien* in substantially the following form:

**PRELIMINARY NOTICE OF RIGHT TO LIEN TO OWNER OF MATERIALS
SUPPLIED OR WORK ~~OR SERVICES~~ PERFORMED**

To:
(Owner's name and address)



1 The undersigned notifies you that he has supplied materials or
2 performed work ~~for services~~ as follows:

3
4 (General description of materials ~~for work or services~~
5 ~~and anticipated total value~~) *supplied or work performed*
6 for improvement of real property identified as (property description or
7 street address) under contract with (general contractor or subcontractor).
8 This is not a notice that the undersigned has not been or does not expect to
9 be paid, but a notice required by law that the undersigned may, at a future
10 date, ~~claim~~ *record* a *notice of* lien as provided by law against the property
11 *or any improvement* if the undersigned is not paid.

12
13
14 ~~(Lien)~~ *(Lien)* Claimant

15
16 A subcontractor ~~for materialman under a subcontract~~ who gives such a
17 notice must also deliver in person or send by certified mail a copy of the
18 notice to ~~the general~~ *his prime* contractor for information only. The
19 failure by a subcontractor to deliver ~~such~~ *the* notices to the ~~general~~
20 *prime* contractor is a ground for disciplinary proceedings against the
21 subcontractor under chapter 624 of NRS ~~but~~ *but does not invalidate the*
22 *notice to the owner.*

23 2. Such a notice does not constitute a lien or give actual or constructive
24 notice of a lien for any purpose.

25 3. No lien for materials *or equipment* furnished or for work ~~for~~
26 ~~services~~ performed, except labor, may be perfected or enforced pursuant
27 to NRS 108.221 to 108.246, inclusive, ~~unless the~~ *and sections 2 to 26,*
28 *inclusive, of this act for work, materials or equipment furnished more*
29 *than 31 days before:*

30 (a) *The date on which a preliminary notice of right to lien* has been
31 given ~~as provided in this section; or~~

32 (b) *The owner obtains notice or knowledge of the work, materials or*
33 *equipment the lien claimant furnished for the work of improvement.*

34 4. The notice need not be verified, sworn to or acknowledged.

35 5. A ~~general~~ *prime* contractor or other person who contracts directly
36 with an owner or sells materials directly to an owner is not required to give
37 notice pursuant to this section.

38 ~~{6. As used in this section, "owner" does not include any person, firm~~
39 ~~or corporation whose only interest in the real property is under a mortgage,~~
40 ~~deed of trust or other security arrangement.}~~

41 **Sec. 56.** NRS 108.246 is hereby amended to read as follows:

42 108.246 1. Each ~~general~~ *prime* contractor shall, before execution of
43 a contract for construction, inform the ~~record~~ owner with whom he
44 intends to contract of the provisions of NRS 108.245 in substantially the
45 following form:

46 To:
47
48 (Owner's name and address)



1 ~~{Section 108.245 of Nevada Revised Statutes.}~~ *The provisions of NRS*
2 *108.245*, a part of the mechanics' *and materialmen's* lien law of the State
3 of Nevada, ~~{requires.}~~ *require*, for your information and protection from
4 hidden liens, that each person or other legal entity ~~{which}~~ *who* supplies
5 materials to or performs work ~~{or services}~~ on a construction project, other
6 than one who performs only labor, shall deliver to the owner a notice of the
7 materials *and equipment* supplied or the work ~~{or services}~~ performed.
8 You may receive ~~{such}~~ *these* notices in connection with the construction
9 project which you propose to undertake.

10 2. Each ~~{general}~~ *prime* contractor shall deliver a copy of the
11 information required by subsection 1 to each subcontractor who
12 participates in the construction project.

13 3. The failure of a ~~{general}~~ *prime* contractor so to inform owners and
14 subcontractors with whom he contracts is a ground for disciplinary
15 proceedings under chapter 624 of NRS. ~~†~~

16 ~~—4. Each subcontractor who participates in the construction project shall~~
17 ~~deliver a copy of each notice required by NRS 108.226 to the general~~
18 ~~contractor. The failure of the subcontractor to deliver such notice to the~~
19 ~~general contractor is a ground for disciplinary proceedings under chapter~~
20 ~~624 of NRS.~~

21 **Sec. 57.** NRS 624.3016 is hereby amended to read as follows:
22 624.3016 The following acts or omissions, among others, constitute
23 cause for disciplinary action under NRS 624.300:

24 1. Any fraudulent or deceitful act committed in the capacity of a
25 contractor.

26 2. A conviction of a violation of NRS 624.730 or a felony or a crime
27 involving moral turpitude.

28 3. Knowingly making a false statement in or relating to the recording
29 of a notice of lien pursuant to the provisions of NRS 108.226.

30 4. Failure to give a notice required by NRS *108.227*, 108.245 or
31 108.246.

32 5. Failure to comply with NRS 597.713, 597.716 or 597.719 or any
33 regulations of the board governing contracts for the construction of
34 residential pools and spas.

35 6. Failure to comply with NRS 624.600.

36 7. Misrepresentation or the omission of a material fact, or the
37 commission of any other fraudulent or deceitful act, to obtain a license.

38 8. Failure to pay an assessment required pursuant to NRS 624.470.

39 **Sec. 58.** NRS 108.223, 108.2231 and 108.224 are hereby repealed.

40 **Sec. 59.** Sections 25 and 26 of this act apply only to agreements
41 entered into after October 1, 2001.



TEXT OF REPEALED SECTIONS

108.223 Lien on lot or tract of land for improvements made at request of owner. Any person who, at the request of the owner of any lot or tract of land, or his agent, grades, fills in, installs a system for irrigation, seeds, plants, lays sod, landscapes or otherwise improves the lot or tract of land, or the street in front of or adjoining it, has a lien upon it for the work done and materials furnished.

108.2231 Lien on real property, building, structure or improvement thereon for services rendered at request of owner.

1. Any person who, at the request of the owner of any real property, building, structure or improvement thereon, or his agent, performs services as an engineer, land surveyor or geologist in relation to that real property, building, structure or improvement thereon, has a lien upon it for the work done and materials furnished.

2. The amount of the lien is:

(a) If the parties entered into a contract, the unpaid balance of the price agreed upon; or

(b) In the absence of a contract, an amount equal to the fair market value of the labor performed or material furnished, including a reasonable allowance for overhead and profit.

108.224 Land subject to lien. The land occupied by any building or other superstructure, railroad, tramway, toll road, canal, water ditch, flume, aqueduct or reservoir, bridge or fence, together with a convenient space about the same, or so much as may be required for the convenient use and occupation thereof, to be determined by the court on rendering judgment, is also subject to the lien, if at the commencement of the work, or of the furnishing of the materials for the same, the land belonged to the person who caused the building, improvement or structure to be constructed, altered or repaired; but if such person owned less than a fee simple estate in such land, then only his interest therein is subject to such lien.

