

CHAPTER 314

[Engrossed Substitute House Bill No. 573]

REAL PROPERTY LIENS—DISPUTES—SUPPLIES FOR PUBLIC
CONSTRUCTION PROJECTS

AN ACT Relating to claims arising from improvements upon real property; amending RCW 4.16.160, 4.16.310, and 4.16.300; adding a new section to chapter 60.04 RCW; and adding a new section to chapter 60.28 RCW.

Be it enacted by the Legislature of the State of Washington:

***Sec. 1. Section 2, chapter 43, Laws of 1955 and RCW 4.16.160 are each amended to read as follows:**

The limitations prescribed in this chapter shall apply to actions brought in the name or for the benefit of any county or other municipality or quasi-municipality of the state, in the same manner as to actions brought by private parties: PROVIDED, That, except as provided in RCW 4.16.310, there shall be no limitation to actions brought in the name or for the benefit of the state, and no claim of right predicated upon the lapse of time shall ever be asserted against the state: AND FURTHER PROVIDED, That no previously existing statute of limitations shall be interposed as a defense to any action brought in the name or for the benefit of the state, although such statute may have run and become fully operative as a defense prior to February 27, 1903, nor shall any cause of action against the state be predicated upon such a statute.

*Sec. 1 was vetoed, see message at end of chapter.

***Sec. 2. Section 2, chapter 75, Laws of 1967 and RCW 4.16.310 are each amended to read as follows:**

All claims or causes of action as set forth in RCW 4.16.300 shall accrue, and the applicable statute of limitation shall begin to run only during the period within six years after substantial completion of construction, or during the period within six years after the termination of the services enumerated in RCW 4.16.300, whichever is later. The phrase "substantial completion of construction" shall mean the state of completion reached when an improvement upon real property may be used or occupied for its intended use. Any cause of action which has not accrued within six years after such substantial completion of construction, or within six years after such termination of services, whichever is later, shall be barred: PROVIDED, That this limitation shall not be asserted as a defense by any owner, tenant or other person in possession and control of the improvement at the time such cause of action accrues. The limitations prescribed in this section apply to all claims or causes of action as set forth in RCW 4.16.300 brought in the name or for the benefit of the state which are made or commenced after the effective date of this 1986 act.

*Sec. 2 was vetoed, see message at end of chapter.

**Sec. 3. Section 1, chapter 75, Laws of 1967 and RCW 4.16.300 are each amended to read as follows:*

RCW 4.16.300 through 4.16.320 shall apply to all claims or causes of action of any kind against any person, arising from such person having constructed, altered or repaired any improvement upon real property, or having performed or furnished any design, planning, surveying, architectural or construction or engineering services, or supervision or observation of construction, or administration of construction contracts for any construction, alteration or repair of any improvement upon real property. This section is intended to benefit only those persons referenced herein and shall not apply to claims or causes of action against manufacturers.

**Sec. 3 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 4. A new section is added to chapter 60.04 RCW to read as follows:

Any owner of real property subject to a recorded claim of lien under RCW 60.04.060, or the contractor or subcontractor who disputes the correctness or validity of the claim of lien may record, either before or after the commencement of an action to enforce the claim of lien, in the office of the county recorder or auditor in the county where the claim of lien was recorded, a bond issued by an insurance company authorized to issue surety bonds in the state, that is acceptable to the lien claimant and contains a description of the claim of lien and real property involved, and in an amount equal to the greater of five thousand dollars or two and one-half times the amount of the claim of lien if it is twenty thousand dollars or less, and in an amount equal to the greater of thirty thousand dollars or two times the amount of claim of lien if it is in excess of twenty thousand dollars. If the claim of lien affects more than one parcel of real property and is segregated to each parcel, the bond may be segregated the same as in the claim of lien. A separate bond shall be required for each claim of lien. The condition of the bond shall be to guarantee the payment of the judgment entered in any action to recover the amount claimed in a claim of lien, or on the claim asserted in the claim of lien. The effect of recording a bond shall be to release the real property described in the claim of lien from the lien and any action brought to recover the amount claimed. Unless otherwise prohibited by law, if no action is filed to recover on a claim of lien within the time specified in RCW 60.04.100 the surety shall be discharged from liability under the bond. If such an action is timely filed, then on payment of any judgment entered in the action or on payment of the full amount of the bond to the holder of the judgment, whichever is less, the surety shall be discharged from liability under the bond.

NEW SECTION. Sec. 5. A new section is added to chapter 60.28 RCW to read as follows:

Every person, firm, or corporation furnishing materials, supplies, or equipment to be used in the construction, performance, carrying on, prosecution, or doing of any work for the state, or any county, city, town, district, municipality, or other public body, shall give to the contractor of the work a notice in writing, which notice shall cover the material, supplies, or equipment furnished or leased during the sixty days preceding the giving of such notice as well as all subsequent materials, supplies, or equipment furnished or leased, stating in substance and effect that such person, firm, or corporation is and/or has furnished materials and supplies, or equipment for use thereon, with the name of the subcontractor ordering the same, and that a lien against the retained percentage may be claimed for all materials and supplies, or equipment furnished by such person, firm, or corporation for use thereon, which notice shall be given by (1) mailing the same by registered or certified mail in an envelope addressed to the contractor, or (2) by serving the same personally upon the contractor or the contractor's representative and obtaining evidence of such service in the form of a receipt or other acknowledgement signed by the contractor or the contractor's representative, and no suit or action shall be maintained in any court against the retained percentage to recover for such material, supplies, or equipment or any part thereof unless the provisions of this section have been complied with.

Passed the House March 9, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

Note: Governors explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 1, 2 and 3, Substitute House Bill No. 573, entitled:

"AN ACT Relating to claims arising from improvements upon real property."

Sections 1, 2 and 3 are identical to sections 701, 702 and 703 of Substitute Senate Bill No. 4630. Since I am signing Substitute Senate Bill No. 4630, sections 1, 2 and 3 of this bill are duplicative.

With the exception of sections 1, 2 and 3, Substitute House Bill No. 573 is approved."

CHAPTER 315

[House Bill No. 1633]

TIMBER EXCISE TAX—PUBLIC TIMBER—PRIVATE PURCHASERS— HARVESTER

AN ACT Relating to taxation of timber harvested by public entities; amending RCW 84.33.035, 84.33.073, 82.04.050, and 82.04.100; reenacting and amending RCW 82.04.330; adding a new section to chapter 82.04 RCW; adding new sections to chapter 84.33 RCW; and declaring an emergency.