

(4) Section 28B.50.650, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.650;

(5) Section 28B.50.670, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.670; and

(6) Section 28B.50.680, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.680: PROVIDED, That this section shall not be effective until June 30, 1974.

NEW SECTION. Sec. 11. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the House March 17, 1973.

Passed the Senate April 8, 1973.

Approved by the Governor April 20, 1973.

Filed in Office of Secretary of State April 23, 1973.

CHAPTER 47

[Substitute House Bill No. 264]

LIENS--MECHANICS' AND MATERIALMEN'S--

CONSTRUCTION LOAN MORTGAGES--

DRAW REGULATIONS--PRIORITY

AN ACT Relating to mechanics' and materialmen's liens and construction loan mortgages; and adding new sections to chapter 60.04 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. There is added to chapter 60.04 RCW a new section to read as follows:

As used in this chapter, the following meanings shall apply:

(1) "Lender" means any person or entity regularly providing interim or construction financing.

(2) "Interim or construction financing" means that portion of money secured by mortgage, deed of trust, or other encumbrance to finance construction of improvements on, or development of, real property, but does not include:

(a) Funds to acquire real property;

(b) Funds to pay interest, insurance premiums, lease deposits, taxes, assessments, or prior encumbrances;

(c) Funds to pay loan, commitment, title, legal, closing, recording or appraisal fees;

(d) Funds to pay other customary fees; which pursuant to agreement with the owner or borrower are to be paid by the lender from time to time;

(e) Funds to acquire personal property for which the potential

lien claimant may not claim a lien pursuant to chapter 60.04 RCW.

(3) "Owner" means the record holder of the legal or beneficial title to the real property to be improved or developed.

(4) "Potential lien claimant" means any person or entity entitled to assert lien rights pursuant to this chapter and has otherwise complied with the provisions of this chapter and the requirements of chapter 18.27 RCW if required by the provisions thereof.

(5) "Draws" means periodic disbursements of interim or construction financing by a lender.

NEW SECTION. Sec. 2. There is added to chapter 60.04 RCW a new section to read as follows:

Any lender providing interim or construction financing where there is not a payment bond of at least fifty percent of the amount of construction financing shall observe the following procedures:

(1) Draws against construction financing shall be made only after certification of job progress by the general contractor and the owner or his agent in such form as may be prescribed by the lender.

(2) Any potential lien claimant who has not received a payment within twenty days after the date required by his contract or purchase order may within twenty days thereafter file a notice as provided herein of the sums due and to become due, for which a potential lien claimant may claim a lien under chapter 60.04 RCW.

(3) The notice must be filed in writing with the lender at the office administering the interim or construction financing, with a copy furnished to the owner and appropriate general contractor. The notice shall state in substance and effect that such person, firm or corporation has furnished labor, materials and supplies, or supplied equipment for which right of lien is given by this chapter, with the name of the general contractor, agent or person ordering the same, a common or street address of the real property being improved or developed, or if there be none the legal description of said real property, description of the labor, or material furnished, or equipment leased, the name, business address and telephone number of said lien claimant which notice shall be given by mailing the same by registered or certified mail, return receipt requested.

(4) After the receipt of such notice, the lender shall withhold from the next and subsequent draws such percentage thereof as is equal to that percentage of completion as certified in subsection (1) of this section, which is attributable to the potential lien claimant as of the date of the certification of job progress for the draw in question less contracted retainage. The percentage of completion attributable to the the lien claimant shall be calculated from said certification of job progress, and shall be reduced to reflect any sums paid to or withheld for the potential

lien claimant. Alternatively, the lender may obtain from the general contractor or borrower a payment bond for the benefit of the potential lien claimant in such sum.

(5) Sums so withheld shall not be disbursed by the lender except by the written agreement of the potential lien claimant, owner and general contractor in such form as may be prescribed by the lender, or the order of a court of competent jurisdiction.

(6) In the event a lender fails to abide by the provisions of subsections (4) or (5) of this section, then the mortgage, deed of trust or other encumbrance securing the lender will be subordinated to the lien of the potential lien claimant to the extent of the interim or construction financing wrongfully disbursed, but in no event in an amount greater than the sums ultimately determined to be due the potential lien claimant by a court of competent jurisdiction, or more than the sum stated in the notice, whichever is less.

(7) Any potential lien claimant shall be liable for any loss, cost or expense, including reasonable attorney fees, to the party injured thereby arising out of any unjust, excessive or premature notice of claim.

NEW SECTION. Sec. 3. There is added to chapter 60.04 RCW a new section to read as follows:

Except as provided in RCW 60.04.050 or in this 1973 act any mortgage or deed of trust shall be prior to all liens, mortgages, deeds of trust and other encumbrances which have not been recorded prior to the recording of such mortgage or deed of trust to the extent of all sums secured by such mortgage or deed of trust regardless of when the same are disbursed or whether such disbursements are obligatory.

NEW SECTION. Sec. 4. If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the House April 13, 1973.

Passed the Senate April 12, 1973.

Approved by the Governor April 20, 1973.

Filed in Office of Secretary of State April 23, 1973.

CHAPTER 48
 [House Bill No. 361]
 PUBLIC ASSISTANCE--MEDICAL CARE
 VENDORS--CHARGE PRESENTATION
 PERIOD

AN ACT Relating to public assistance; and amending section 74.09.160,