

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

NEW SECTION. Sec. 1. There is added to chapter 26.09 RCW a new section to read as follows:

In entering or modifying a support order under this chapter, the court shall require a parent owing an obligation of child support to maintain or provide health insurance coverage for any dependent child if all of the following conditions are met:

(1) Health insurance that can be extended to cover the child is available to the obligor parent through an employer or other organization;

(2) The employer or other organization offering health insurance will contribute all or a part of the premium for coverage of the child; and

(3) The custodial parent does not have health insurance available through an employer or other organization at no or reduced cost that covers the child.

An obligor parent who is required to extend insurance coverage to a child under this section is liable for any covered health care costs for which the obligor parent receives direct payment from an insurer.

Passed the Senate March 2, 1984.

Passed the House February 25, 1984.

Approved by the Governor March 15, 1984.

Filed in Office of Secretary of State March 15, 1984.

CHAPTER 202

[Engrossed Substitute House Bill No. 914]

MECHANICS' AND MATERIALMENS' LIENS

AN ACT Relating to mechanics' and materialmen's liens; amending section 1, chapter 47, Laws of 1973 1st ex. sess. and RCW 60.04.200; amending section 2, chapter 47, Laws of 1973 1st ex. sess. as amended by section 10, chapter 34, Laws of 1975 and RCW 60.04.210; amending section 1, chapter 45, Laws of 1909 as last amended by section 1, chapter 57, Laws of 1977 ex. sess. and RCW 60.04.020; adding a new section to chapter 60.04 RCW; and prescribing penalties.

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

Sec. 1. Section 1, chapter 47, Laws of 1973 1st ex. sess. and RCW 60.04.200 are each amended 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.

(6) "Prime contractor" includes all contractors, general contractors, and specialty contractors as defined in RCW 18.27.010 who contract to perform for a property owner and includes property owners or their authorized representatives who are contractors, general contractors, or specialty contractors as defined in RCW 18.27.010 who offer to sell their property without occupying or using the structures, projects, developments, or improvements for more than one year.

(7) "Construction project" means construction work contracted for by a property owner or the owner's authorized representative with a prime contractor on real property controlled by the owner.

Sec. 2. Section 2, chapter 47, Laws of 1973 1st ex. sess. as amended by section 10, chapter 34, Laws of 1975 and RCW 60.04.210 are each amended 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))~~ five days after the date required by his contract, employee benefit plan agreement, 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, trustee, or corporation is entitled to

receive contributions to any type of employee benefit plan, 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, or a brief statement describing the nature of the contributions owed to any type of employee benefit plan, 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 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 under this section. For purposes of this subsection, "notice of claim" does not include notice given by a potential lien claimant of the right to claim liens under this chapter where no actual claim is made.

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

(1) For any construction project costing more than five thousand dollars where the primary use of the improvements on the real property is for one or more residences the prime contractor shall post in plain view for the

duration of the construction project a legible notice at the construction job site containing the following:

(a) The legal description, the street address if available, and any other identification of the construction site by the prime contractor;

(b) The property owner's name, address, and phone number;

(c) The prime contractor's business name, address, phone number, current state contractor registration number and identification; and

(d) Either:

(i) The name, address, and phone number of the office of the lender administering the interim construction financing; or

(ii) The name and address of the firm that has issued a payment bond on behalf of the prime contractor for the protection of the owner if the bond is for an amount not less than fifty percent of the total amount of the construction project.

(2) For any construction project not subject to subsection (1) of this section costing more than five thousand dollars, the prime contractor shall post in plain view for the duration of the construction project a legible notice at the construction job site containing the following:

(a) The legal description or the street address and any other identification of the construction site by the prime contractor;

(b) The property owner's name, address, and phone number;

(c) The prime contractor's business name, address, phone number, current state contractor registration number and identification.

(3) Failure to comply with this section is a gross misdemeanor.

Sec. 4. Section 1, chapter 45, Laws of 1909 as last amended by section 1, chapter 57, Laws of 1977 ex. sess. and RCW 60.04.020 are each amended to read as follows:

Every person, firm or corporation furnishing materials or supplies or renting, leasing or otherwise supplying equipment, to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge, ditch, dyke, flume, tunnel, well, fence, machinery, railroad, street railway, wagon road, aqueduct to create hydraulic power, or any other building, or any other structure, or mining claim or stone quarry, shall give to the owner or reputed owner of the property on, upon or about which such materials or supplies or equipment is and/or were used, 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 contractor or agent ordering the same, and that a lien 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 to the owner or reputed owner by (1) mailing the same by registered or certified mail in an

envelope addressed to the owner or reputed owner at his place of residence or reputed residence, or (2) by serving the same personally upon the owner or reputed owner and obtaining evidence of such service in the form of a receipt or other acknowledgment signed by such owner or reputed owner, and (3) if the prime contractor complies with section 3 of this act, the notice shall also be given to the prime contractor as defined in RCW 60.04.200(6) by (a) any form of mail requiring a return receipt or (b) by serving the notice personally upon the prime contractor or the prime contractor's representative and obtaining evidence of such service in the form of a receipt or other acknowledgement signed by the prime contractor or the prime contractor's representative; PROVIDED, HOWEVER, That with respect to materials or supplies or equipment used in construction, alteration or repair of any single family residence or garage such notice must be given not later than ten days after the date of the first delivery of such materials or supplies or equipment. No materialmen's lien shall be enforced unless the provisions of this section have been complied with: PROVIDED, That in the event the notice required by this section is not given within the time specified by this section, any lien or claim of lien shall be enforceable only for materials and supplies or equipment delivered subsequent to such notice being given to the owner or reputed owner, and such lien or claim of lien shall be secondary to any lien or claim of lien established where such notice was given within the time limits prescribed by this section.

Passed the House February 29, 1984.

Passed the Senate February 25, 1984.

Approved by the Governor March 16, 1984.

Filed in Office of Secretary of State March 16, 1984.

CHAPTER 203

[Engrossed House Bill No. 392]

LOCAL IMPROVEMENTS—HEARINGS—HISTORIC PRESERVATION BY
CITIES AND COUNTIES—CREDIT CARD USE BY POLITICAL
SUBDIVISIONS—COMMUNITY COUNCILS—HOSPITAL DISTRICTS

AN ACT Relating to local government; amending section 35.43.140, chapter 7, Laws of 1965 and RCW 35.43.140; amending section 35A.05.040, chapter 119, Laws of 1967 ex. sess. and RCW 35A.05.040; amending section 84.09.030, chapter 15, Laws of 1961 as amended by section 4, chapter 26, Laws of 1981 and RCW 84.09.030; adding a new section to chapter 35-.21 RCW; adding new sections to chapter 36.32 RCW; adding a new section to chapter 42.24 RCW; creating a new section; and declaring an emergency.

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

Sec. 1. Section 35.43.140, chapter 7, Laws of 1965 and RCW 35.43-.140 are each amended to read as follows:

Any local improvement to be paid for in whole or in part by the levy and collection of assessments upon the property within the proposed improvement district may be initiated by a resolution of the city or town