

REFERENCE TITLE: notices; construction liens; online registry

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2589

Introduced by
Representative Fann

AN ACT

AMENDING TITLE 32, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-1104.01, 32-1104.02, 32-1104.03, 32-1104.04, 32-1104.05 AND 32-1104.06; AMENDING SECTIONS 33-981 AND 33-992.01, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTION 33-992.02, ARIZONA REVISED STATUTES; AMENDING SECTIONS 33-993, 33-1056, 34-223 AND 34-611, ARIZONA REVISED STATUTES; RELATING TO MECHANICS' AND MATERIALMEN'S LIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 32, chapter 10, article 1, Arizona Revised Statutes,
3 is amended by adding sections 32-1104.01, 32-1104.02, 32-1104.03, 32-1104.04,
4 32-1104.05 and 32-1104.06, to read:

5 32-1104.01. Online registry; preliminary twenty-day notices;
6 notices of completion; third-party contractor;
7 fees

8 A. THE REGISTRAR SHALL OVERSEE THE ESTABLISHMENT, OPERATION AND
9 MAINTENANCE OF AN ONLINE REGISTRY FOR PURPOSES OF RECEIVING AND PROVIDING
10 NOTICE OF AND ACCESS TO PRELIMINARY TWENTY-DAY NOTICES AND NOTICES OF
11 COMPLETION THAT ARE FILED AS PRESCRIBED BY TITLE 33, CHAPTER 7, ARTICLE 6.
12 THE ONLINE REGISTRY MUST BE OPERATIONAL BEGINNING JANUARY 1, 2015.

13 B. THE REGISTRAR SHALL CONTRACT WITH A THIRD PARTY TO ESTABLISH,
14 OPERATE AND MAINTAIN THE REGISTRY. THE THIRD-PARTY CONTRACTOR MAY COLLECT A
15 FEE FROM EACH PERSON FILING AND SHALL:

16 1. ENSURE A SECURE INTERNET-BASED SYSTEM WITH A PUBLICLY ACCESSIBLE
17 WEBSITE.

18 2. THROUGH THE ONLINE REGISTRY, RECEIVE THE FILING OF PRELIMINARY
19 TWENTY-DAY NOTICES AS PRESCRIBED BY SECTION 33-992.01, REQUESTS FOR NOTICE AS
20 PRESCRIBED BY SECTION 33-992.02 AND NOTICES OF COMPLETION AS PRESCRIBED BY
21 SECTION 33-993, AND PROVIDE NOTICES OF FILINGS AS PRESCRIBED BY SECTIONS
22 33-992.02 AND 33-993.

23 3. ESTABLISH PROCEDURES FOR CREATING PROJECT FILES, RECEIVING FILINGS
24 AND GENERATING NOTICES.

25 4. ESTABLISH PROCEDURES TO ALLOW FILINGS BY THIRD PARTIES ON BEHALF OF
26 THE PERSON HIRING THE THIRD PARTY.

27 5. PAY MONTHLY TO THE REGISTRAR OF CONTRACTORS AN ADMINISTRATIVE FEE.

28 C. THE THIRD-PARTY CONTRACTOR SHALL COMPLY WITH ALL LAWS REGARDING THE
29 ONLINE REGISTRY.

30 32-1104.02. Online registry; notice provided; requests for
31 notice; third-party filings

32 A. THE ONLINE REGISTRY ESTABLISHED PURSUANT TO SECTION 32-1104.01 MUST
33 PROVIDE NOTIFICATION OF THE FILING OF A REQUIRED NOTICE RELATING TO THE
34 CONSTRUCTION, ALTERATION OR REPAIR OF ANY BUILDING, STRUCTURE OR OTHER
35 IMPROVEMENT TO:

36 1. THE PERSON FILING THE REQUIRED NOTICE, UNLESS THE PERSON INDICATES
37 TO THE ONLINE REGISTRY THAT THE PERSON DOES NOT WANT TO RECEIVE NOTIFICATION.

38 2. EACH PERSON WHO REQUESTS NOTIFICATION OF THE FILING OF A REQUIRED
39 NOTICE FOR A PROJECT.

40 3. EACH PERSON WHO FILES A PRELIMINARY TWENTY-DAY NOTICE OR A NOTICE
41 OF COMPLETION FOR A PROJECT.

42 B. A PERSON MAY REQUEST THE ONLINE REGISTRY TO PROVIDE THE PERSON
43 NOTICE OF THE FILING OF A REQUIRED NOTICE FOR ANY PROJECT. THE PERSON
44 REQUESTING NOTICE UNDER THIS SUBSECTION SHALL PROVIDE AN E-MAIL ADDRESS,
45 MAILING ADDRESS OR FAX NUMBER TO WHICH NOTIFICATION MAY BE SENT AND IS
46 RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.

1 C. A PERSON IS CONSIDERED TO HAVE REQUESTED NOTICE OF A FILING UNDER
2 SUBSECTION B OF THIS SECTION IF, WITH RESPECT TO THAT SAME PROJECT THAT
3 RELATES TO THE REQUIRED NOTICE THAT IS THE SUBJECT OF THE NOTIFICATION, THE
4 PERSON FILES ANY OF THE FOLLOWING:

- 5 1. A PRELIMINARY TWENTY-DAY NOTICE.
- 6 2. A REQUEST FOR NOTICE PURSUANT TO SUBSECTION B OF THIS SECTION.
- 7 3. A NOTICE OF COMPLETION.

8 D. THE ONLINE REGISTRY FULFILLS THE NOTIFICATION REQUIREMENT UNDER
9 SUBSECTION B OF THIS SECTION BY SENDING THE NOTIFICATION TO THE E-MAIL
10 ADDRESS, MAILING ADDRESS OR FAX NUMBER THAT THE PERSON PROVIDES TO THE ONLINE
11 REGISTRY, WHETHER OR NOT THE PERSON ACTUALLY RECEIVES THE NOTIFICATION.

12 E. A NOTICE FILED WITH THE ONLINE REGISTRY BY A THIRD PARTY ON BEHALF
13 OF ANOTHER IS DEEMED TO BE FILED BY THE PERSON ON WHOSE BEHALF THE NOTICE IS
14 FILED.

15 32-1104.03. Online registry; index

16 THE ONLINE REGISTRY ESTABLISHED PURSUANT TO SECTION 32-1104.01 MUST
17 INDEX FILINGS BY ALL OF THE FOLLOWING:

- 18 1. THE NAME OF THE OWNER.
- 19 2. THE NAME OF THE ORIGINAL CONTRACTOR.
- 20 3. THE SUBDIVISION, DEVELOPMENT OR OTHER PROJECT NAME, IF ANY.
- 21 4. THE LOT OR PARCEL NUMBER.
- 22 5. THE ADDRESS OF THE PROJECT PROPERTY.
- 23 6. THE NAME OF THE COUNTY IN WHICH THE PROJECT IS LOCATED.
- 24 7. THE TAX PARCEL IDENTIFICATION NUMBER OF EACH PARCEL INCLUDED IN THE
25 PROJECT PROPERTY.
- 26 8. THE BUILDING PERMIT NUMBER.
- 27 9. THE ONLINE REGISTRY'S ENTRY NUMBER FOR THAT FILING.
- 28 10. ANY OTHER IDENTIFIER THAT THE REGISTRAR DETERMINES REASONABLY
29 APPROPRIATE IN COLLABORATION WITH THE THIRD-PARTY CONTRACTOR.

30 32-1104.04. Online registry; preliminary twenty-day notices;
31 proof of substantial compliance

32 A. IF A PRELIMINARY TWENTY-DAY NOTICE FILED WITH THE ONLINE REGISTRY
33 INCLUDES THE TAX PARCEL IDENTIFICATION NUMBER OF A PARCEL NOT PREVIOUSLY
34 ASSOCIATED IN THE ONLINE REGISTRY WITH A CONSTRUCTION PROJECT, THE ONLINE
35 REGISTRY MUST PROMPTLY NOTIFY THE PERSON WHO FILED THE PRELIMINARY NOTICE
36 THAT:

37 1. THE PRELIMINARY NOTICE INCLUDES A TAX PARCEL IDENTIFICATION NUMBER
38 OF A PARCEL NOT PREVIOUSLY ASSOCIATED IN THE REGISTRY WITH A CONSTRUCTION
39 PROJECT.

40 2. THE LIKELY EXPLANATION IS THAT THE PRELIMINARY TWENTY-DAY NOTICE IS
41 THE FIRST FILING FOR THE PROJECT OR THE TAX PARCEL IDENTIFICATION NUMBER IS
42 INCORRECTLY STATED IN THE PRELIMINARY TWENTY-DAY NOTICE.

43 B. THE BURDEN IS ON THE PERSON FILING THE PRELIMINARY TWENTY-DAY
44 NOTICE TO PROVE THAT THE PERSON HAS SUBSTANTIALLY COMPLIED WITH THIS SECTION
45 AND THE OTHER REQUIREMENTS FOR THE PRELIMINARY TWENTY-DAY NOTICE.

1 SUBSTANTIAL COMPLIANCE MAY BE ESTABLISHED BY A PERSON'S REASONABLE RELIANCE
2 ON INFORMATION IN THE REGISTRY PROVIDED BY A PREVIOUSLY FILED:

- 3 1. PRELIMINARY TWENTY-DAY NOTICE.
- 4 2. REQUEST FOR NOTICE PURSUANT TO SECTION 32-1104.02, SUBSECTION B.
- 5 3. NOTICE OF COMPLETION.

6 32-1104.05. Online registry; limitation of liability

7 A. THIS STATE, ITS AGENCIES AND EMPLOYEES AND ANY OF ITS POLITICAL
8 SUBDIVISIONS ARE IMMUNE FROM SUIT FOR ANY INJURY RESULTING FROM THE ONLINE
9 REGISTRY. THIS STATE IS NOT RESPONSIBLE FOR THE SECURITY, STORAGE OR
10 MAINTENANCE OF ANY INFORMATION RECEIVED BY THE ONLINE REGISTRY.

11 B. THE THIRD-PARTY CONTRACTOR PRESCRIBED BY SECTION 32-1104.01,
12 SUBSECTION B AND ITS PRINCIPALS, AGENTS AND EMPLOYEES ARE NOT LIABLE TO ANY
13 PERSON FOR THE ACCURACY, SUITABILITY, COMPLETENESS OR LEGAL EFFECTIVENESS OF
14 INFORMATION FILED OR SEARCHED IN THE ONLINE REGISTRY IF THE THIRD-PARTY
15 CONTRACTOR:

16 1. DEVELOPS AND MAINTAINS THE ONLINE REGISTRY IN COMPLIANCE WITH
17 RELIABILITY, AVAILABILITY AND SECURITY STANDARDS ESTABLISHED BY THE
18 REGISTRAR.

19 2. MEETS DATA ENTRY ACCURACY STANDARDS ESTABLISHED BY THE REGISTRAR.

20 C. THE THIRD-PARTY CONTRACTOR AND ITS PRINCIPALS, AGENTS AND EMPLOYEES
21 ARE NOT LIABLE FOR ANY INABILITY TO PERFORM OBLIGATIONS UNDER THIS CHAPTER TO
22 THE EXTENT PERFORMANCE OF THOSE OBLIGATIONS IS PREVENTED BY:

- 23 1. A STORM, EARTHQUAKE OR OTHER ACT OF GOD.
- 24 2. A FIRE.
- 25 3. AN ACCIDENT.
- 26 4. GOVERNMENTAL INTERFERENCE.
- 27 5. ANY OTHER EVENT OR CAUSE BEYOND THE THIRD-PARTY CONTRACTOR'S
28 CONTROL.

29 D. ANY PERSON WHO FILES A NOTICE WITH THE ONLINE REGISTRY THAT
30 CONTAINS INACCURATE OR INCOMPLETE INFORMATION IS NOT LIABLE FOR DAMAGES
31 SUFFERED BY ANY OTHER PERSON WHO RELIES ON THE INACCURATE OR INCOMPLETE
32 INFORMATION IN THE NOTICE.

33 32-1104.06. Online registry; effect of document filing; no
34 constructive notice

35 THE FILING OF A DOCUMENT IN THE ONLINE REGISTRY IS NOT INTENDED TO GIVE
36 NOTICE TO ALL PERSONS OF THE CONTENTS OF THE DOCUMENT AND DOES NOT CONSTITUTE
37 CONSTRUCTIVE NOTICE OF MATTERS RELATING TO REAL PROPERTY TO PURCHASERS FOR
38 VALUE AND WITHOUT KNOWLEDGE.

39 Sec. 2. Section 33-981, Arizona Revised Statutes, is amended to read:

40 33-981. Lien for labor; professional services or materials used
41 in construction, alteration or repair of structures;
42 preliminary twenty-day notice; exceptions

43 A. Except as provided in sections 33-1002 and 33-1003, every person
44 who labors or furnishes professional services, materials, machinery, fixtures
45 or tools in the construction, alteration or repair of any building, or other
46 structure or improvement, shall have a lien on such building, structure or

1 improvement for the work or labor done or professional services, materials,
2 machinery, fixtures or tools furnished, whether the work was done or the
3 articles were furnished at the instance of the owner of the building,
4 structure or improvement, ~~or his~~ THE OWNER'S agent.

5 B. Every contractor, subcontractor, architect, builder or other person
6 having charge or control of the construction, alteration or repair, either
7 wholly or in part, of any building, structure or improvement is the agent of
8 the owner for the purposes of this article, and the owner shall be liable for
9 the reasonable value of labor or materials furnished to ~~his~~ THE agent.

10 C. A person who is required to be licensed as a contractor but who
11 does not hold a valid license as such contractor issued pursuant to title 32,
12 chapter 10 shall not have the lien rights provided for in this section.

13 D. A person WHO IS required to ~~give~~ FILE A preliminary twenty-day
14 notice pursuant to section 33-992.01 is entitled to enforce the lien rights
15 provided for in this section only if ~~he~~ THE PERSON has ~~given~~ FILED such
16 notice ~~and has made proof of service~~ pursuant to section ~~33-992.02~~ 33-992.01.

17 E. A person who furnishes professional services but who does not hold
18 a valid certificate of registration issued pursuant to title 32, chapter 1
19 shall not have the lien rights provided for in this section.

20 F. A person who furnishes professional services is entitled to enforce
21 the lien rights provided for in this section only if such person has an
22 agreement with the owner of the property or with an architect, an engineer or
23 a contractor who has an agreement with the owner of the property.

24 Sec. 3. Section 33-992.01, Arizona Revised Statutes, is amended to
25 read:

26 33-992.01. Definitions; preliminary twenty-day notice; content;
27 registration of construction project; exception

28 A. For the purposes of this section:

29 1. "Construction lender" means any mortgagee or beneficiary under a
30 deed of trust lending funds, all or a portion of which are used to defray the
31 cost of the construction, alteration, repair or improvement, or any assignee
32 or successor in interest of either.

33 2. "Original contractor" means any contractor who has a direct
34 contractual relationship with the owner.

35 3. "Owner" means the person, or the person's successor in interest,
36 who causes a building, structure or improvement to be constructed, altered or
37 repaired, whether the interest or estate of the person is in fee, as vendee
38 under a contract to purchase, as lessee, or other interest or estate less
39 than fee. Where an interest or estate is held by two or more persons as
40 community property, joint tenants or tenants in common, any one or more of
41 the persons may be deemed the owner.

42 4. "Preliminary twenty-day notice" means one or more ~~written~~
43 from a claimant that are ~~given~~ FILED prior to the recording of a mechanic's
44 lien and which are required to be ~~given~~ FILED pursuant to this section.

1 B. Except for a person performing actual labor for wages, every person
2 who furnishes labor, professional services, materials, machinery, fixtures or
3 tools for which a lien otherwise may be claimed under this article ~~shall~~, as
4 a necessary prerequisite to the validity of any claim of lien, ~~serve the~~
5 ~~owner or reputed owner, the original contractor or reputed contractor, the~~
6 ~~construction lender, if any, or reputed construction lender, if any, and the~~
7 ~~person with whom the claimant has contracted for the purchase of those items~~
8 ~~with a written~~ SHALL FILE A preliminary twenty-day notice as prescribed by
9 this section.

10 C. The preliminary twenty-day notice referred to in subsection B of
11 this section shall be ~~given~~ FILED not later than twenty days after the
12 claimant has first furnished labor, professional services, materials,
13 machinery, fixtures or tools to the jobsite and shall contain the following
14 information:

15 1. A general description of the labor, professional services,
16 materials, machinery, fixtures or tools furnished or to be furnished ~~and an~~
17 ~~estimate of the total price thereof.~~

18 2. The name, ~~and~~ address, E-MAIL ADDRESS AND TELEPHONE NUMBER of the
19 person furnishing labor, professional services, materials, machinery,
20 fixtures or tools.

21 3. The name of the person who contracted for the purchase of labor,
22 professional services, materials, machinery, fixtures or tools.

23 4. ~~A legal description,~~ THE subdivision ~~plat,~~ DEVELOPMENT AND street
24 address, location with respect to commonly known roads or other landmarks in
25 the area or any other description of the jobsite sufficient for
26 identification.

27 ~~5. The following statement in bold faced type:~~

28 ~~In accordance with Arizona Revised Statutes section~~
29 ~~33-992.01, this is not a lien and this is not a reflection on~~
30 ~~the integrity of any contractor or subcontractor.~~

31 ~~Notice to Property Owner~~

32 ~~If bills are not paid in full for the labor, professional~~
33 ~~services, materials, machinery, fixtures or tools furnished or~~
34 ~~to be furnished, a mechanic's lien leading to the loss, through~~
35 ~~court foreclosure proceedings, of all or part of your property~~
36 ~~being improved may be placed against the property. You may wish~~
37 ~~to protect yourself against this consequence by either:~~

38 ~~1. Requiring your contractor to furnish a conditional~~
39 ~~waiver and release pursuant to Arizona Revised Statutes section~~
40 ~~33-1008, subsection D, paragraphs 1 and 3 signed by the person~~
41 ~~or firm giving you this notice before you make payment to your~~
42 ~~contractor.~~

43 ~~2. Requiring your contractor to furnish an unconditional~~
44 ~~waiver and release pursuant to Arizona Revised Statutes section~~
45 ~~33-1008, subsection D, paragraphs 2 and 4 signed by the person~~

1 ~~or firm giving you this notice after you make payment to your~~
2 ~~contractor.~~

3 ~~3. Using any other method or device which is appropriate~~
4 ~~under the circumstances.~~

5 ~~D. The preliminary notice given by any claimant shall follow~~
6 ~~substantially the following form:~~

7 ~~Arizona Preliminary Twenty Day Lien Notice~~

8 ~~In accordance with Arizona Revised Statutes section~~
9 ~~33-992.01, this is not a lien. This is not a reflection on the~~
10 ~~integrity of any contractor or subcontractor.~~

11 ~~The name and address of~~ This preliminary lien notice has
12 ~~the owner or reputed~~ been completed by (name and
13 ~~owner are:~~ address of claimant):

14 ~~Date:~~ _____

15 ~~By:~~ _____

16 ~~Address:~~ _____

17 ~~The name and address~~ You are hereby notified that the
18 ~~of the original~~ claimant has furnished or will
19 ~~contractor are:~~ furnish labor, professional
20 ~~services, materials, machinery,~~
21 ~~fixtures or tools of the~~
22 ~~following general description:~~

23 ~~The name and address of~~
24 ~~any lender or reputed~~
25 ~~lender and assigns are:~~
26 ~~In the construction, alteration or~~
27 ~~repair of the building, structure~~
28 ~~or improvement located at:~~

29 ~~The name and address~~
30 ~~of the person with~~
31 ~~whom the claimant~~
32 ~~has contracted are:~~

33 ~~And situated upon that certain~~
34 ~~lot(s) or parcel(s) of land in~~
35 ~~_____ County, Arizona,~~
36 ~~described as follows:~~

37 ~~An estimate of the total price of~~
38 ~~the labor, professional services,~~
39 ~~materials, machinery, fixtures~~
40 ~~or tools furnished or to be~~
41 ~~furnished is: \$_____~~

42 ~~(The following statement shall be in bold-faced type.)~~

43 ~~Notice to Property Owner~~

44 ~~If bills are not paid in full for the labor, professional~~
45 ~~services, materials, machinery, fixtures or tools furnished, or~~
46 ~~to be furnished, a mechanic's lien leading to the loss, through~~
~~court foreclosure proceedings, of all or part of your property~~

1 being improved may be placed against the property. You may wish
2 to protect yourself against this consequence by either:

3 1. Requiring your contractor to furnish a conditional
4 waiver and release pursuant to Arizona Revised Statutes section
5 33-1008, subsection D, paragraphs 1 and 3 signed by the person
6 or firm giving you this notice before you make payment to your
7 contractor.

8 2. Requiring your contractor to furnish an unconditional
9 waiver and release pursuant to Arizona Revised Statutes section
10 33-1008, subsection D, paragraphs 2 and 4 signed by the person
11 or firm giving you this notice after you make payment to your
12 contractor.

13 3. Using any other method or device that is appropriate
14 under the circumstances.

15 (The following language shall be in type at least as large
16 as the largest type otherwise on the document.)

17 Within ten days of the receipt of this preliminary
18 twenty-day notice the owner or other interested party is
19 required to furnish all information necessary to correct any
20 inaccuracies in the notice pursuant to Arizona Revised Statutes
21 section 33-992.01, subsection I or lose as a defense any
22 inaccuracy of that information.

23 Within ten days of the receipt of this preliminary
24 twenty-day notice if any payment bond has been recorded in
25 compliance with Arizona Revised Statutes section 33-1003, the
26 owner must provide a copy of the payment bond including the name
27 and address of the surety company and bonding agent providing
28 the payment bond to the person who has given the preliminary
29 twenty day notice. In the event that the owner or other
30 interested party fails to provide the bond information within
31 that ten day period, the claimant shall retain lien rights to
32 the extent precluded or prejudiced from asserting a claim
33 against the bond as a result of not timely receiving the bond
34 information.

35 Dated: _____
36
37 _____
38 (Company name)
39 By: _____
40 _____
41 (Signature)
42 _____
43 _____
44 (Title)

45 (Acknowledgement of receipt language from Arizona Revised
Statutes section 33-992.02 shall be inserted here.)

46 5. THE TAX PARCEL IDENTIFICATION NUMBER FOR EACH PARCEL INCLUDED IN
47 THE PROJECT PROPERTY.

48 6. A GENERAL DESCRIPTION OF THE CONSTRUCTION PROJECT.

1 ~~E.~~ D. If labor, professional services, materials, machinery, fixtures
2 or tools are furnished to a jobsite by a person who elects not to ~~give~~ FILE a
3 preliminary twenty-day notice as provided in subsection B of this section,
4 that person is not precluded from ~~giving~~ FILING a preliminary twenty-day
5 notice not later than twenty days after furnishing other labor, professional
6 services, materials, machinery, fixtures or tools to the same jobsite. The
7 person, however, is entitled to claim a lien only for such labor,
8 professional services, materials, machinery, fixtures or tools furnished
9 within twenty days prior to the ~~service~~ FILING of the notice and at any time
10 thereafter.

11 ~~F.~~ The notice or notices required by this section may be given by
12 mailing the notice by first class mail sent with a certificate of mailing,
13 registered or certified mail, postage prepaid in all cases, addressed to the
14 person to whom notice is to be given at the person's residence or business
15 address. Service is complete at the time of the deposit of notice in the
16 mail.

17 ~~G.~~ E. A person required by this section to ~~give~~ FILE A notice ~~to the~~
18 ~~owner, to an original contractor, to the construction lender, if any, and to~~
19 ~~the person with whom the claimant has contracted~~ need ~~give~~ FILE only one
20 notice ~~to the owner, to the original contractor, to the construction lender,~~
21 ~~if any, and to the person with whom the claimant has contracted~~ with respect
22 to all labor, professional services, materials, machinery, fixtures or tools
23 furnished for the building, structure or improvement, ~~unless the actual~~
24 ~~estimated total price for the labor, professional services, materials,~~
25 ~~machinery, fixtures or tools furnished or to be furnished exceeds by twenty~~
26 ~~per cent or more the total price in any prior original or subsequent~~
27 ~~preliminary notice or~~ unless the labor, professional services, materials,
28 machinery, fixtures or tools are furnished under contracts with more than one
29 subcontractor, in which case notice requirements shall be met for all
30 additional labor, professional services, materials, machinery, fixtures or
31 tools.

32 ~~H.~~ F. If a notice contains a general description required by
33 subsection C of this section of the labor, professional services, materials,
34 machinery, fixtures or tools furnished up to the date of notice, it is not
35 defective because after the date the person ~~giving~~ FILING notice furnishes
36 labor, professional services, materials, machinery, fixtures or tools that
37 are not within the scope of the general description, ~~or exceed by less than~~
38 ~~twenty per cent the estimated total price thereof.~~

39 ~~I.~~ G. ~~Within ten days after receipt of a written request from any~~
40 ~~person or the person's agent intending to file a preliminary twenty-day~~
41 ~~notice, which request shall identify the person, the person's address, the~~
42 ~~jobsite and the general nature of the person's labor, professional services,~~
43 ~~materials, machinery or tools to which the preliminary twenty-day notice~~
44 ~~shall apply, or within ten days of the receipt of a preliminary twenty-day~~
45 ~~notice, the owner or other interested party shall furnish the person a~~
46 ~~written statement containing~~ ANY PERSON OR THE PERSON'S AGENT WHO INTENDS TO

1 FILE A PRELIMINARY TWENTY-DAY NOTICE MAY SEND A WRITTEN NOTICE TO THE OWNER
2 REQUESTING the following information:

3 1. The legal description, THE subdivision plat, ~~street address or~~
4 ~~location with respect to commonly known roads or other landmarks in the area,~~
5 ~~or any other description of the jobsite sufficient for identification~~
6 DEVELOPMENT OR OTHER PROJECT NAME, IF ANY.

7 2. THE TAX PARCEL IDENTIFICATION NUMBER.

8 3. THE STREET ADDRESS OF EACH PARCEL INCLUDED IN THE PROJECT.

9 4. THE BUILDING PERMIT NUMBER.

10 ~~2-~~ 5. The name and address of the owner ~~or reputed owner~~.

11 ~~3-~~ 6. The name and address of the original contractor or reputed
12 contractor.

13 ~~4. The name and address of the construction lender, if any, or reputed~~
14 ~~construction lender.~~

15 7. WHETHER THE PROJECT HAS BEEN REGISTERED WITH THE ONLINE REGISTRY AS
16 PRESCRIBED BY SUBSECTION L OF THIS SECTION.

17 ~~5-~~ 8. If any payment bond has been recorded pursuant to section
18 33-1003, a copy of the bond and the name and address of the surety company
19 and bonding agent, if any, providing the payment bond.

20 H. THE NOTICE SENT PURSUANT TO SUBSECTION G OF THIS SECTION MUST
21 INCLUDE THE FOLLOWING OR SUBSTANTIALLY SIMILAR LANGUAGE:

22 NOTICE TO PROPERTY OWNER PURSUANT TO ARIZONA REVISED
23 STATUTES SECTION 33-992.01, SUBSECTION G:

24 IF A PERSON FURNISHING LABOR, PROFESSIONAL SERVICES,
25 MATERIALS, MACHINERY, FIXTURES OR TOOLS IS NOT PAID IN FULL,
26 THAT PERSON MAY RECORD A MECHANIC'S LIEN AGAINST THE PROPERTY
27 BEING IMPROVED. YOU, AS THE PROPERTY OWNER, MAY REGISTER YOUR
28 PROJECT WITH THE ONLINE REGISTRY ESTABLISHED PURSUANT TO ARIZONA
29 REVISED STATUTES SECTION 32-1104.01. IF YOUR PROJECT IS
30 REGISTERED, PRELIMINARY TWENTY-DAY NOTICES FOR LABOR,
31 PROFESSIONAL SERVICES, MATERIALS, MACHINERY, FIXTURES OR TOOLS
32 TO YOUR PROJECT WILL BE FILED IN YOUR SPECIFIC ONLINE REGISTRY
33 FILE AND YOU WILL BE ABLE TO REVIEW THE NAMES AND ADDRESSES OF
34 ANY POTENTIAL MECHANIC'S LIEN CLAIMANTS AGAINST YOUR PROJECT.

35 I. WITHIN TEN DAYS AFTER RECEIPT OF A NOTICE SENT PURSUANT TO
36 SUBSECTION G OF THIS SECTION, THE OWNER SHALL FURNISH A WRITTEN STATEMENT
37 CONTAINING THE REQUESTED INFORMATION TO THE PERSON MAKING THE REQUEST.

38 J. Failure of the owner or other interested party to furnish the
39 information ~~required~~ PRESCRIBED by this section does not excuse any claimant
40 from timely ~~giving~~ FILING a preliminary twenty-day notice, but it does stop
41 the owner OR OTHER INTERESTED PARTY from raising as a defense any inaccuracy
42 of the information in a preliminary twenty-day notice, ~~provided the~~
43 ~~claimant's preliminary twenty-day notice of lien otherwise complies with the~~
44 ~~provisions of this chapter~~ IF THE CLAIMANT HAS MADE A GOOD FAITH EFFORT TO
45 DETERMINE THE REGISTRY INDEX NUMBER, IF ANY, AND THE TAX PARCEL
46 IDENTIFICATION NUMBER. If the information is received by the claimant after

1 the claimant has ~~given~~ FILED a preliminary twenty-day notice and the
2 information contained in the preliminary twenty-day notice is inaccurate, the
3 claimant ~~shall~~, within thirty days of the receipt of this information, ~~give~~
4 SHALL FILE an amended preliminary twenty-day notice in the manner provided in
5 this section. An amended preliminary twenty-day notice shall be considered
6 as having been ~~given~~ FILED at the same time as the original preliminary
7 twenty-day notice, except that the amended preliminary twenty-day notice
8 shall be effective only as to work performed, materials supplied or
9 professional services rendered twenty days prior to the date of the amended
10 preliminary twenty-day notice or the date the original preliminary twenty-day
11 notice was ~~given to the owner~~ FILED, whichever occurs first. If a payment
12 bond has been recorded in compliance with section 33-1003 and the owner or
13 other interested party fails to furnish a copy of the bond and the other
14 information as required by this section, the claimant shall retain lien
15 rights to the extent precluded or prejudiced from asserting a claim against
16 the bond as a direct result of not timely receiving a copy of the bond and
17 the other information from the owner or other interested party.

18 K. A PRELIMINARY TWENTY-DAY NOTICE IS VALID ONLY IF FILED WITH THE
19 ONLINE REGISTRY ESTABLISHED PURSUANT TO SECTION 32-1104.01.

20 L. A PROPERTY OWNER, ORIGINAL CONTRACTOR, LENDER, SURETY COMPANY OR
21 TITLE COMPANY ISSUING A TITLE INSURANCE POLICY ON THE PROJECT PROPERTY MAY
22 REGISTER THE CONSTRUCTION PROJECT WITH THE ONLINE REGISTRY ESTABLISHED
23 PURSUANT TO SECTION 32-1104.01.

24 M. THE REGISTRATION OF A CONSTRUCTION PROJECT WITH THE ONLINE REGISTRY
25 ESTABLISHED PURSUANT TO SECTION 32-1104.01 MUST INCLUDE THE FOLLOWING
26 INFORMATION:

- 27 1. THE SUBDIVISION, DEVELOPMENT OR OTHER PROJECT NAME, IF ANY.
- 28 2. THE TAX PARCEL IDENTIFICATION NUMBER OF EACH PARCEL INCLUDED IN THE
29 PROJECT PROPERTY.
- 30 3. THE STREET ADDRESS OF EACH PARCEL INCLUDED IN THE PROJECT PROPERTY.
- 31 4. THE NAME AND ADDRESS OF THE OWNER.
- 32 5. THE NAME AND ADDRESS OF THE ORIGINAL CONTRACTOR.
- 33 6. THE BUILDING PERMIT NUMBER.
- 34 7. IF ANY PAYMENT BOND HAS BEEN RECORDED PURSUANT TO SECTION 33-1003,
35 A COPY OF THE BOND AND THE NAME AND ADDRESS OF THE SURETY COMPANY AND BONDING
36 AGENT, IF ANY, PROVIDING THE PAYMENT BOND.
- 37 8. A GENERAL DESCRIPTION OF THE CONSTRUCTION PROJECT.

38 N. THIS SECTION DOES NOT APPLY TO ANY PERSON OR CLAIMANT WHO HAS
39 PROVIDED LABOR OR MATERIALS ON A PUBLIC BUILDING OR PUBLIC IMPROVEMENT AND
40 WHO IS SEEKING A CLAIM UNDER A PAYMENT BOND PURSUANT TO SECTION 34-223.

41 Sec. 4. Delayed repeal

42 Section 33-992.02, Arizona Revised Statutes, is repealed from and after
43 December 31, 2015.

1 Sec. 5. Section 33-993, Arizona Revised Statutes, is amended to read:
2 33-993. Procedure to perfect lien; notice of completion; claim
3 of lien; service; recording; notice of filing;
4 definition

5 A. In order to impress and secure the lien provided for in this
6 article, every person claiming the benefits of this article, within one
7 hundred twenty days after completion of a building, structure or improvement,
8 or any alteration or repair of such building, structure or improvement, or if
9 a notice of completion has been ~~recorded~~ FILED, within sixty days after
10 ~~recordation~~ THE FILING of such notice, shall make duplicate copies of a
11 notice and claim of lien and record one copy OF THE NOTICE AND CLAIM OF LIEN
12 with the county recorder of the county in which the property or some part of
13 the property is located, and within a reasonable time thereafter serve the
14 remaining copy ~~upon~~ ON the owner of the building, structure or improvement,
15 if ~~he~~ THE OWNER can be found within the county. The notice and claim of lien
16 shall be made under oath by the claimant or someone with knowledge of the
17 facts and shall contain:

18 1. The legal description of the lands and improvements to be charged
19 with a lien.

20 2. The name of the owner or reputed owner of the property concerned,
21 if known, and the name of the person by whom the lienor was employed or to
22 whom ~~he~~ THE LIENOR furnished materials.

23 3. A statement of the terms, time given and conditions of the
24 contract, if it is oral, or a copy of the contract, if it is written.

25 4. A statement of the lienor's demand, after deducting just credits
26 and offsets.

27 5. A statement of the date of completion of the building, structure or
28 improvement, or any alteration or repair of such building, structure or
29 improvement.

30 6. A statement of the date the preliminary twenty-day notice required
31 by section 33-992.01 was ~~given~~ FILED. A copy of ~~such~~ THE NOTICE OF FILING OF
32 THE preliminary twenty-day notice ~~and the proof of mailing required by~~
33 ~~section 33-992.02~~ THAT IS PROVIDED BY THE ONLINE REGISTRY PURSUANT TO SECTION
34 32-1104.02 shall be attached.

35 B. For purposes of this section, if a work of improvement consists of
36 the construction for residential occupancy of more than one separate building
37 without regard to whether the buildings are constructed pursuant to separate
38 contracts or a single contract, each building is a separate work and the time
39 within which to perfect a lien by recording the notice of lien pursuant to
40 subsection A of this section commences to run on the completion of each
41 separate building. For purposes of this subsection, "separate building"
42 means one structure of a work of improvement and any garages or other
43 appurtenant buildings in a multibuilding residential project or residential
44 subdivision.

1 C. For the purposes of subsection A of this section, "completion"
2 means the earliest of the following events:

3 1. Thirty days after final inspection and written final acceptance by
4 the governmental body ~~which~~ THAT issued the building permit for the building,
5 structure or improvement.

6 2. Cessation of labor for a period of sixty consecutive days, except
7 when such cessation of labor is due to a strike, shortage of materials or act
8 of God.

9 D. If no building permit is issued or if the governmental body that
10 issued the building permit for the building, structure or improvement does
11 not issue final inspections and written final acceptances, ~~then~~ "completion"
12 for the purposes of subsection A of this section means the last date on which
13 any labor, materials, fixtures or tools were furnished to the property.

14 E. For the purposes of this section, "notice of completion" means a
15 written notice ~~which~~ THAT the owner or its agent may elect to record at any
16 time after completion of construction as defined in subsection C of this
17 section for the purpose of shortening the lien period, as provided in
18 subsection A of this section. A notice of completion shall be signed and
19 verified by the owner or its agent and shall contain the following
20 information:

- 21 1. The name and address of the owner.
- 22 2. The nature of the interest or estate of the owner.
- 23 3. The legal description of the jobsite and the street address. The
24 validity of the notice is not affected by the fact that the street address
25 recited is erroneous or that such street address is omitted.
- 26 4. The name of the original contractor, if any.
- 27 5. The names and addresses of any predecessors in interest if the
28 property was transferred after the beginning of the work or improvement.
- 29 6. The nature of the improvements to the real property.

30 ~~F. The notice of completion shall follow substantially the following~~
31 ~~form:~~

~~Notice of Completion~~

~~Notice is hereby given that:~~

34 ~~1. The undersigned is owner of the interest or estate~~
35 ~~stated below in the property hereinafter described, or the~~
36 ~~undersigned is the owner's agent.~~

37 ~~2. The full name of the undersigned is _____.~~

38 ~~3. The full address of the undersigned is _____~~
39 ~~_____.~~

40 ~~4. The nature of the interest or estate of the owner is:~~
41 ~~in fee. _____ (If other than fee,~~
42 ~~strike "In Fee" and insert, for example, "Purchaser Under~~
43 ~~Contract of Purchase" or "Lessee".)~~

44 ~~5. The full names and full addresses of all persons, if~~
45 ~~any, who hold interest or estate with the undersigned such as~~
46 ~~joint tenants or tenants in common are:~~

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Name Address

~~6. The full names and full addresses of the predecessors in interest of the undersigned, if the property was transferred after the beginning of the work or improvement:~~

Name Address

~~7. The nature of the improvements to the real property~~

_____.

~~8. The work of improvement on the property hereinafter described was completed in accordance with the definition of completion in Arizona Revised Statutes section 33-993, subsection C. (Fill in the appropriate completion date as defined in Arizona Revised Statutes section 33-993, subsection C.)~~

~~(a) Date _____
(thirty days after written final acceptance by governmental body)~~

~~(b) Date _____
(sixty days after cessation of labor)~~

~~9. The name of the original contractor, if any, for such work or improvement is _____.~~

~~(if no contractor, insert "none")~~

~~10. The street address of the property is _____~~

~~(include both address and city with zip code)~~

~~11. The legal description of property described above~~

~~(attach exhibit if necessary)~~

~~Verification~~

~~I, the undersigned, certify that I am the owner, the owner's agent for the property or another interested party in the property, described in the above notice, or I certify that I am the original contractor of the improvements to the real property described in the above notice. I have read the foregoing notice and know and understand the contents thereof, and the facts stated therein are true and correct. I declare under penalty of perjury that the foregoing is true and correct.~~

1 Executed on _____ at _____, Arizona.
 2 _____ (date) _____ (place where signed)
 3 _____
 4 _____ (print name)
 5 _____
 6 _____ (personal signature)
 7 _____
 8 _____ (title)

9 (Acknowledgement)

10 ~~Each notice of completion shall contain the following language in type at~~
 11 ~~least as large as the largest type that otherwise appears on the document.~~
 12 ~~In order to shorten the lien period pursuant to Arizona Revised~~
 13 ~~Statutes section 33-993, subsection A, a copy of the notice of~~
 14 ~~completion and a written statement of the date of recording and~~
 15 ~~the county recorder's record location information shall be~~
 16 ~~served by certified or registered mail, postage prepaid, to the~~
 17 ~~owner, the original contractor and all persons from whom the~~
 18 ~~person recording this notice has previously received a~~
 19 ~~preliminary twenty-day notice as prescribed by Arizona Revised~~
 20 ~~Statutes section 33-993, subsection I.~~

21 ~~Notice: Receipt of a notice of completion may alter the time~~
 22 ~~you have to impress and secure a lien in accordance with Arizona~~
 23 ~~Revised Statutes section 33-993, subsection A.~~

24 ~~G. If there is more than one owner, any notice of completion signed by~~
 25 ~~less than all such owners shall recite the name and address of all such~~
 26 ~~owners. If the notice of completion is signed by a successor in interest, it~~
 27 ~~shall recite the names and addresses of his transferor or transferors.~~

28 ~~H. A notice of completion shall be recorded in the office of the~~
 29 ~~county recorder of the county in which the property or some part of the~~
 30 ~~property is located. The county recorder of the county in which the notice~~
 31 ~~of completion is recorded shall index the notice of completion under the~~
 32 ~~index classification in which mechanics' and materialmen's liens are~~
 33 ~~recorded.~~

34 ~~I. If a notice of completion has been recorded, the person recording~~
 35 ~~the notice, within fifteen days of recording, shall mail by certified or~~
 36 ~~registered mail postage prepaid a copy of the notice of completion and a~~
 37 ~~written statement of the date of recording and the county recorder's record~~
 38 ~~location information to the original contractor and all persons from whom the~~
 39 ~~owner has previously received a preliminary twenty-day notice. In the event~~
 40 ~~the owner or its agent fails to mail a copy of the notice of completion and a~~
 41 ~~written statement of the date of recording and the county recorder's record~~
 42 ~~location information within fifteen days of recording to any person from whom~~
 43 ~~the owner has received a preliminary twenty-day notice, such person shall~~
 44 ~~have one hundred twenty days from completion as defined in section 33-993 to~~
 45 ~~impress and secure the lien provided for in this article.~~

1 F. ON COMPLETION OF A CONSTRUCTION PROJECT, A NOTICE OF COMPLETION MAY
2 BE FILED WITH THE ONLINE REGISTRY ESTABLISHED PURSUANT TO SECTION 32-1104.01
3 BY AN OWNER, A CONTRACTOR, A LENDER THAT HAS PROVIDED FINANCING FOR THE
4 CONSTRUCTION PROJECT, A SURETY THAT HAS PROVIDED BONDING FOR THE CONSTRUCTION
5 PROJECT OR A TITLE COMPANY ISSUING A TITLE INSURANCE POLICY. A NOTICE OF
6 COMPLETION SHALL INCLUDE ALL OF THE FOLLOWING:

7 1. THE NAME, ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS OF THE
8 PERSON FILING THE NOTICE OF COMPLETION.

9 2. THE NAME AND ADDRESS OF THE OWNER OR REPUTED OWNER.

10 3. THE SUBDIVISION, THE STREET ADDRESS OR LOCATION WITH RESPECT TO
11 COMMONLY KNOWN ROADS OR OTHER LANDMARKS IN THE AREA AND THE TAX PARCEL
12 IDENTIFICATION NUMBER OF THE CONSTRUCTION PROJECT.

13 4. THE TAX PARCEL IDENTIFICATION NUMBER FOR EACH PARCEL INCLUDED IN
14 THE PROJECT PROPERTY.

15 5. THE NAME OF THE COUNTY IN WHICH THE PROJECT IS LOCATED.

16 6. A GENERAL DESCRIPTION OF THE CONSTRUCTION PROJECT.

17 7. THE DATE ON WHICH COMPLETION IS ALLEGED TO HAVE OCCURRED.

18 8. THE METHOD USED TO DETERMINE FINAL COMPLETION.

19 G. IF A NOTICE OF COMPLETION HAS BEEN FILED AS PRESCRIBED BY THIS
20 SECTION, THE OPERATOR OF THE ONLINE REGISTRY SHALL PROVIDE A NOTICE OF FILING
21 OF NOTICE OF COMPLETION TO ALL PERSONS WHO HAVE REQUESTED A NOTICE OF FILING
22 WITH RESPECT TO THAT PROJECT. IF THE OWNER OR ITS AGENT FAILS TO FILE A
23 NOTICE OF COMPLETION AND FAILS TO ENSURE THAT, WITHIN FIFTEEN DAYS AFTER
24 FILING THE NOTICE OF COMPLETION, A NOTICE OF FILING OF NOTICE OF COMPLETION
25 HAS BEEN DELIVERED TO ANY PERSON FROM WHOM THE OWNER HAS RECEIVED A
26 PRELIMINARY TWENTY-DAY NOTICE, THAT PERSON HAS ONE HUNDRED TWENTY DAYS FROM
27 COMPLETION TO IMPRESS AND SECURE THE LIEN PROVIDED FOR IN THIS ARTICLE.

28 Sec. 6. Section 33-1056, Arizona Revised Statutes, is amended to read:

29 33-1056. Effective notice

30 A. The stop notice shall be delivered to the owner personally or left
31 at the owner's residence with a person of suitable age and discretion or the
32 owner's place of business. If the notice is served on a construction lender
33 who holds construction monies and who maintains branch offices, it is not
34 effective against the construction lender unless it is given to or served on
35 the manager or other responsible officer or person at the office or branch
36 that administers or holds the construction monies. Any stop notice may be
37 served by certified mail with the same effect as by personal service.

38 B. Service of a stop notice or bonded stop notice is effective only if
39 the claimant complies with ~~all~~ BOTH of the following:

40 1. ~~Gives~~ FILES any preliminary twenty-day notice in accordance with
41 ~~sections~~ SECTION 33-992.01 ~~and 33-992.02~~ only as required by ~~those sections~~
42 THAT SECTION.

43 2. Serves the stop notice or bonded stop notice before the expiration
44 of the time within which to record a claim of lien under section 33-993.

1 Sec. 7. Section 34-223, Arizona Revised Statutes, is amended to read:
2 34-223. Payment bond provisions; statute of limitations;
3 preliminary twenty-day notice; service

4 A. Every claimant who has furnished labor or material in the
5 prosecution of the work provided for in such contract in respect of which a
6 payment bond is furnished under ~~the provisions of~~ section 34-222, and who has
7 not been paid in full therefor before the expiration of a period of ninety
8 days after the day on which the last of the labor was done or performed by
9 the claimant or material was furnished or supplied by the claimant for which
10 such claim is made, shall have the right to sue on such payment bond for the
11 amount, or the balance thereof, unpaid at the time of institution of such
12 suit and to prosecute such action to final judgment for the sum or sums
13 justly due the claimant, and have execution thereon, provided however that
14 any such claimant having a direct contractual relationship with a
15 subcontractor of the contractor furnishing such payment bond but no
16 contractual relationship express or implied with such contractor shall have a
17 right of action upon such payment bond upon giving the contractor only a
18 written preliminary twenty-day notice, as provided for in ~~section 33-992.01,~~
19 ~~subsection C, paragraphs 1, 2, 3 and 4 and subsections E and H~~ SUBSECTION D
20 OF THIS SECTION, and upon giving written NINETY-DAY notice to such contractor
21 within ninety days from the date on which such claimant performed the last of
22 the labor or furnished or supplied the last of the material for which such
23 claim is made, stating with substantial accuracy the amount claimed and the
24 name of the party to whom the material was furnished or supplied OR for whom
25 the labor was done or performed. ~~Such~~ THE WRITTEN NINETY-DAY notice shall be
26 served by registered or certified mail, postage prepaid, ~~in an envelope~~ OR BY
27 ANY OTHER MEANS THAT PROVIDES WRITTEN THIRD-PARTY VERIFICATION OF DELIVERY
28 addressed to the contractor at any place the contractor maintains an office
29 or conducts business, or at the contractor's residence.

30 B. Every suit instituted under this section shall be brought in the
31 name of the claimant, but no such suit shall be commenced after the
32 expiration of one year from the date on which the last of the labor was
33 performed or materials were supplied by the person bringing this suit.

34 C. The contracting body and the agent in charge of its office shall
35 furnish to anyone making written application therefor who states that it has
36 supplied labor or materials for such work, and payment therefor has not been
37 made, or that it is being sued on any such bond, or that it is the surety
38 thereon, a certified copy of such bond and the contract for which it was
39 given, which ~~copy~~ shall be prima facie evidence of the contents, execution
40 and delivery of the original. Applicants shall pay for such certified copies
41 such reasonable fees as the contracting body or the agent in charge of its
42 office fixes to cover the actual cost of preparation thereof.

43 D. THE PRELIMINARY TWENTY-DAY NOTICE PRESCRIBED BY SUBSECTION A OF
44 THIS SECTION MUST BE GIVEN NOT LATER THAN TWENTY DAYS AFTER THE CLAIMANT HAS
45 FIRST FURNISHED LABOR, PROFESSIONAL SERVICES, MATERIALS, MACHINERY, FIXTURES
46 OR TOOLS TO THE JOBSITE AND MUST CONTAIN THE FOLLOWING INFORMATION:

1 1. A GENERAL DESCRIPTION OF THE LABOR, PROFESSIONAL SERVICES,
2 MATERIALS, MACHINERY, FIXTURES OR TOOLS FURNISHED OR TO BE FURNISHED.

3 2. THE NAME AND ADDRESS OF THE PERSON FURNISHING THE LABOR,
4 PROFESSIONAL SERVICES, MATERIALS, MACHINERY, FIXTURES OR TOOLS.

5 3. THE NAME OF THE PERSON WHO CONTRACTED FOR THE PURCHASE OF LABOR,
6 PROFESSIONAL SERVICES, MATERIALS, MACHINERY, FIXTURES OR TOOLS.

7 4. A LEGAL DESCRIPTION, SUBDIVISION PLAT, STREET ADDRESS, LOCATION
8 WITH RESPECT TO COMMONLY KNOWN ROADS OR OTHER LANDMARKS IN THE AREA OR ANY
9 OTHER DESCRIPTION OF THE JOBSITE SUFFICIENT FOR IDENTIFICATION.

10 E. IF LABOR, PROFESSIONAL SERVICES, MATERIALS, MACHINERY, FIXTURES OR
11 TOOLS ARE FURNISHED TO A JOBSITE BY A PERSON WHO ELECTS NOT TO GIVE A
12 PRELIMINARY TWENTY-DAY NOTICE AS PROVIDED IN SUBSECTION A OF THIS SECTION,
13 THAT PERSON IS NOT PRECLUDED FROM GIVING A PRELIMINARY TWENTY-DAY NOTICE NOT
14 LATER THAN TWENTY DAYS AFTER FURNISHING OTHER LABOR, PROFESSIONAL SERVICES,
15 MATERIALS, MACHINERY, FIXTURES OR TOOLS TO THE SAME JOBSITE. THAT PERSON IS
16 ENTITLED TO CLAIM A LIEN ONLY FOR SUCH LABOR, PROFESSIONAL SERVICES,
17 MATERIALS, MACHINERY, FIXTURES OR TOOLS FURNISHED WITHIN TWENTY DAYS BEFORE
18 THE SERVICE OF THE NOTICE AND AT ANY TIME THEREAFTER. IF A NOTICE CONTAINS A
19 GENERAL DESCRIPTION REQUIRED BY SUBSECTION D OF THIS SECTION OF THE LABOR,
20 PROFESSIONAL SERVICES, MATERIALS, MACHINERY, FIXTURES OR TOOLS FURNISHED UP
21 TO THE DATE OF NOTICE, IT IS NOT DEFECTIVE BECAUSE AFTER THE DATE THE PERSON
22 GIVING NOTICE FURNISHES LABOR, PROFESSIONAL SERVICES, MATERIALS, MACHINERY,
23 FIXTURES OR TOOLS THAT ARE NOT WITHIN THE SCOPE OF THE GENERAL DESCRIPTION.
24 THE PRELIMINARY TWENTY-DAY NOTICE REQUIRED BY THIS SECTION MAY BE GIVEN BY
25 MAILING THE NOTICE BY FIRST CLASS MAIL SENT WITH A CERTIFICATE OF MAILING,
26 REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, OR BY ANY OTHER MEANS THAT
27 PROVIDES WRITTEN THIRD-PARTY VERIFICATION OF DELIVERY ADDRESSED TO THE PERSON
28 TO WHOM NOTICE IS TO BE GIVEN AT THE PERSON'S RESIDENCE OR BUSINESS ADDRESS.
29 SERVICE IS COMPLETE AT THE TIME OF THE DEPOSIT OF NOTICE IN THE MAIL.

30 Sec. 8. Section 34-611, Arizona Revised Statutes, is amended to read:

31 34-611. Payment bonds for construction-manager-at-risk,
32 design-build and job-order-contracting construction
33 services: statute of limitations

34 A. Every claimant who has furnished labor or material in the
35 prosecution of the construction provided for in a contract for
36 construction-manager-at-risk construction services, design-build construction
37 services and job-order-contracting construction services in respect of which
38 a payment bond is furnished under section 34-610, and who has not been paid
39 in full before the expiration of ninety days after the day on which the last
40 of the labor was done or performed by the claimant or material was furnished
41 or supplied by the claimant for which the claim is made, shall have the right
42 to sue on the payment bond for the amount, or the balance, unpaid at the time
43 of institution of the suit and to prosecute the action to final judgment for
44 the sums justly due the claimant, and have execution thereon, provided,
45 however, that any claimant having a direct contractual relationship with a
46 subcontractor of the contractor furnishing the payment bond but no

1 contractual relationship express or implied with the contractor shall have a
2 right of action on the payment bond on giving the contractor only a written
3 preliminary twenty-day notice, as provided for in ~~section 33-992.01,~~
4 ~~subsection C, paragraphs 1, 2, 3 and 4 and subsections E and H~~ CHAPTER 2,
5 ARTICLE 2 OF THIS TITLE, and on giving written notice to the contractor
6 within ninety days from the date on which the claimant performed the last of
7 the labor or furnished or supplied the last of the material for which the
8 claim is made, stating with substantial accuracy the amount claimed and the
9 name of the party to whom the material was furnished or supplied or for whom
10 the labor was done or performed. The notice shall be served by registered or
11 certified mail, postage prepaid, in an envelope addressed to the contractor
12 at any place the contractor maintains an office or conducts business, or at
13 the contractor's residence.

14 B. Every suit instituted under this section shall be brought in the
15 name of the claimant, but no suit may be commenced after the expiration of
16 one year from the date on which the last of the labor was performed or
17 materials were supplied by the person bringing this suit.

18 C. The contracting body and the agent in charge of its office shall
19 furnish to anyone making written application therefor and who states that it
20 has supplied labor or materials for work, and payment therefor has not been
21 made, or that it is being sued on any bond, or that it is the surety on the
22 bond, a certified copy of the bond and the contract for which it was given,
23 which ~~copy~~ is prima facie evidence of the contents, execution and delivery of
24 the original. Applicants shall pay for these certified copies such
25 reasonable fees as the contracting body or the agent in charge of its office
26 fixes to cover the actual cost of preparation of the copies.

27 Sec. 9. Effective date

28 Sections 33-981, 33-992.01, 33-993, 33-1056, 34-223 and 34-611, Arizona
29 Revised Statutes, as amended by this act, are effective from and after
30 December 31, 2015.