

**CONSTRUCTION LIEN ACT (EXCERPT)**  
**Act 497 of 1980**

**570.1109 Subcontractor, supplier, or laborer contracting to provide improvement to real property; service of notice of furnishing; form of notice; effect of failure by lien claimant to provide notice within time specified; failure of laborer to provide notice of furnishing; authorization of agent by laborers to prepare and serve notice.**

Sec. 109. (1) Except as otherwise provided in sections 108, 108a, and 301, a subcontractor or supplier who contracts to provide an improvement to real property shall provide a notice of furnishing to the designee and the general contractor, if any, as named in the notice of commencement at the address shown in the notice of commencement, either personally or by certified mail, within 20 days after furnishing the first labor or material. If a designee has not been named in the notice of commencement, or if the designee has died, service shall be made upon the owner or lessee named in the notice of commencement. If service of the notice of furnishing is made by certified mail, service is complete upon mailing. A contractor is not required to provide a notice of furnishing to preserve lien rights arising from his or her contract directly with an owner or lessee.

(2) Except as otherwise provided in sections 108 and 108a, a laborer who contracts to provide an improvement to real property shall provide a notice of furnishing to the designee and the general contractor, if any, as named in the notice of commencement at the address shown in the notice of commencement, either personally or by mail, within 30 days after wages were contractually due but were not paid. If a designee has not been named in the notice of commencement, or if the designee has died, service shall be made upon the owner or lessee named in the notice of commencement. If service of the notice of furnishing is made by mail, service is complete upon mailing by first class mail with postage prepaid.

(3) Except as otherwise provided in sections 108 and 108a, a laborer who provides an improvement to real property shall provide a notice of furnishing to the designee and the general contractor, if any, named in the notice of commencement at the address shown in the notice of commencement, either personally or by certified mail, by the fifth day of the second month following the month in which fringe benefits or withholdings from wages were contractually due but were not paid. If a designee has not been named in the notice of commencement, or if the designee has died, service shall be made upon the owner or lessee named in the notice of commencement. If service of the notice of furnishing is made by certified mail, service is complete upon mailing.

(4) The notice of furnishing, if not given on the form attached to the notice of commencement, shall be in substantially the following form:

NOTICE OF FURNISHING

To: .....  
(name of designee (or owner or lessee) from notice of commencement)  
.....  
(address from notice of commencement)

Please take notice that the undersigned is furnishing to .....  
.....  
(name and address of other contracting party)

certain labor or material for ..... ,  
(describe type of work)  
in connection with the improvements to the real property described  
in the notice of commencement recorded in liber ..... , on  
page ..... , .....records,  
(name of county)

.....  
or (a copy of which is attached hereto)

WARNING TO OWNER: THIS NOTICE IS REQUIRED BY THE MICHIGAN  
CONSTRUCTION LIEN ACT. IF YOU HAVE QUESTIONS ABOUT YOUR RIGHTS  
AND DUTIES UNDER THIS ACT, YOU SHOULD CONTACT AN ATTORNEY TO  
PROTECT YOU FROM THE POSSIBILITY OF PAYING TWICE FOR THE  
IMPROVEMENTS TO YOUR PROPERTY.

.....  
(name and address of lien claimant)  
by .....  
(name and capacity of party  
signing for lien claimant)

.....  
(address of party signing)

Date: .....

(5) The failure of a lien claimant to provide a notice of furnishing within the time specified in this section shall not defeat the lien claimant's right to a construction lien for work performed or materials furnished by the lien claimant after the service of the notice of furnishing.

(6) The failure of a lien claimant, to provide a notice of furnishing within the time specified in this section shall not defeat the lien claimant's right to a construction lien for work performed or materials furnished by the lien claimant before the service of the notice of furnishing except to the extent that payments were made by or on behalf of the owner or lessee to the contractor pursuant to either a contractor's sworn statement or a waiver of lien in accordance with this act for work performed or material delivered by the lien claimant. This subsection does not apply to a laborer.

(7) The failure of a laborer to provide a notice of furnishing to the designee as required by subsection (2) shall defeat the laborer's lien for those wages for which the notice of furnishing is required.

(8) The failure of a laborer to provide a notice of furnishing to the designee as required by subsection (3) shall defeat the laborer's lien for those fringe benefits and withholdings for which the notice of furnishing is required.

(9) The failure of a laborer to provide a notice of furnishing to the general contractor within the time specified in subsection (2) or (3) shall not defeat the laborer's right to a construction lien, but the laborer shall be liable for any actual damages sustained by the general contractor as a result of the failure.

(10) One or more laborers may authorize an agent to prepare and serve a notice of furnishing in the manner provided in this section. Notice of furnishing under this section may contain the notice of furnishing of more than 1 laborer and shall contain the information required in subsection (4) as to each laborer for whom it is prepared. The notice of furnishing of each lien claimant under this subsection shall be considered by the court on its own merits.

**History:** 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982.

**Compiler's note:** In the second sentence of subsection (10), the word "subsection" evidently should read "subsection".