

Iowa

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Statutory Outline

TITLE XI. NATURAL RESOURCES.

SUBTITLE 1. LIENS.

CHAPTER 458A. OIL, GAS AND OTHER MINERALS.

Section 458A.1	Declaration of policy.
Section 458A.2	Definitions.
Section 458A.3	Waste prohibited.
Section 458A.4	Duties and powers of director.
Section 458A.5	Drilling permit required.
Section 458A.6	Department shall determine market demand and regulate the amount of production.
Section 458A.7	Department shall set spacing units.
Section 458A.8	Integration of fractional tracts.
Section 458A.9	Voluntary agreements for unit operation valid.
Section 458A.10	Liens for development and operating costs.
Section 458A.11	Rules covering practice before department.
Section 458A.12	Summoning witnesses, administering oaths, requiring production of records— hearing examiners appointed.
Section 458A.13	Reserved.
Section 458A.14	Appeal to district court—procedure of appeal.
Section 458A.15	Acquisition and handling of illegal oil and gas prohibited—seizure and sale of illegal oil and gas.
Section 458A.16	Penalties.
Section 458A.17	Action to restrain violation or threatened violation.
Section 458A.18	Mineral rights taxed separately.
Section 458A.19	Rate.
Section 458A.20	Tax sale—redemption by owner.
Section 458A.21	Lease of public lands.
Section 458A.22	Duty to have forfeited lease released—affidavit of noncompliance—notice to landowner—remedies.
Section 458A.23	Action to obtain release—damages, costs and attorney fees—attachment.
Section 458A.24	Extension upon contingency—affidavit.
Section 458A.25	Liens for labor or materials and contractor and subcontractor—manner of perfecting liens—enforcement of liens.

TITLE XIV. PROPERTY.

SUBTITLE 3. LIENS.

CHAPTER 572. MECHANIC'S LIEN.

Section 572.1	Definitions and rules of construction.
Section 572.2	Persons entitled to lien.
Section 572.3	Collateral security before completion of work. [Repealed]
Section 572.4	Security after completion of work.
Section 572.5	Extent of Lien.
Section 572.6	In case of leasehold interest.
Section 572.7	In case of internal improvement.
Section 572.8	Perfection of lien.
Section 572.9	Time of lien posting.
Section 572.10	Perfecting lien after lapse of ninety days.
Section 572.11	Extent of lien posted after ninety days.
Section 572.12	Time of filing against railway.
Section 572.13	General contractor—owner notice—residential construction.
Section 572.13A	Notice of commencement of work—general contractor—owner-builder.
Section 572.13B	Preliminary notice—subcontractor—residential construction.
Section 572.14	Liability to subcontractor after payment to general contractor or owner-builder.
Section 572.15	Discharge of mechanic's lien—bond.
Section 572.16	Rule of construction.
Section 572.17	Priority of mechanics' liens between mechanics.
Section 572.18	Priority over other liens.
Section 572.19	Priority over garnishments of the owner.
Section 572.20	Priority as to buildings over prior liens upon land.
Section 572.21	Foreclosure of mechanic's lien when lien on land.
Section 572.22	Record of claim.
Section 572.23	Acknowledgment of satisfaction of claim.
Section 572.24	Time of bringing action—court.
Section 572.25	Place of bringing action.
Section 572.26	Kinds of action—amendment.
Section 572.27	Limitation on action.
Section 572.28	Demand for bringing suit.
Section 572.29	Assignment of lien.
Section 572.30	Action by subcontractor or owner against general contractor or owner-builder.
Section 572.31	Cooperative and condominium housing.
Section 572.32	Attorney fees—remedies.
Section 572.33	Requirement of notification for commercial construction.
Section 572.33A	Liability of owner to general contractor—commercial construction.
Section 572.34	Mechanics' notice and lien registry.

TITLE XI. NATURAL RESOURCES.

SUBTITLE 1. LIENS.

CHAPTER 458A. OIL, GAS AND OTHER MINERALS.

458A.1 Declaration of policy.

It is declared to be in the public interest to foster, to encourage, and to promote the development, production, and utilization of natural resources of oil and gas and metallic minerals in the state in such a manner as will prevent waste; to authorize and to provide for the operation and development of oil and gas and metallic minerals properties in such a manner that a greater ultimate recovery of oil and gas and metallic minerals be had and that the correlative rights of all owners be fully protected; and to encourage and to authorize such measures as will result in the greatest possible economic recovery of oil and gas and metallic minerals within the state to the end that the landowners, the royalty owners, the producers, and the general public realize and enjoy the greatest possible good from these vital natural resources. It is further declared that the general welfare of the people requires that the underground and surface water of the state be protected from pollution and conserved in the best interests of the people of the state.

458A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Certificate of clearance*" means a permit prescribed by the department for the transportation or the delivery of oil or gas or product and issued or registered in accordance with the rule or order requiring the permit.
2. "*Commission*" means the environmental protection commission of the department.
3. "*Department*" means the department of natural resources created under section 455A.2.
4. "*Director*" means the director of the department or a designee.
5. "*Exploration*" means an on-site geologic examination from the surface of an area by core, rotary, percussion, or other drilling for the purpose of obtaining stratigraphic or metallic mineral resource information or establishing the nature of a known metallic mineral deposit.
6. "*Field*" means the general area underlaid by one or more pools.
7. "*Gas*" means and includes all natural gas and all other fluid hydrocarbons which are produced at the wellhead and not hereinabove defined as oil.
8. "*Illegal gas*" means gas which has been produced from any well within this state in excess of the quantity permitted by any rule or order of the department.
9. "*Illegal oil*" means oil which has been produced from any well within the state in excess of the quantity permitted by any rule or order of the department.
10. "*Illegal product*" means any product derived in whole or in part from illegal oil or illegal gas.
11. "*Metallic mineral resources*" means the valuable minerals of an area containing metals such as, but not restricted to, lead, copper, zinc, and iron that are presently recoverable or may be recoverable in the future.
12. "*Oil*" means and includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas.
13. "*Owner*" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas that person produces therefrom either for that person or others or for that person and others.

14. *“Person”* means and includes any natural person, corporation, association, partnership, receiver, trustee, personal representative, guardian, fiduciary or other representative of any kind, and includes any department, agency, or instrumentality of the state or of any governmental subdivision thereof.

15. *“Pool”* means an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure which is completely separated from any other zone in the same structure is a pool, as that term is used in this chapter.

16. *“Producer”* means the owner of a well or wells capable of producing oil or gas or both.

17. *“Product”* means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural-gas gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas, whether hereinabove enumerated or not.

18. *“Reasonable market demand”* means the demand for oil or gas for reasonable current requirements for consumption and use within and without the state, together with such quantities as are reasonably necessary for building up or maintaining reasonable working stocks and reasonable reserves of oil or gas or product.

19. *“Waste”* means and includes:

- a. Physical waste, as that term is generally understood in the oil and gas industry,
- b. The inefficient, excessive, or improper use of, or the unnecessary dissipation of reservoir energy,
- c. The location, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes, or tends to cause, reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas,
- d. The inefficient storing of oil, and
- e. The production of oil or gas in excess of transportation or marketing facilities or in excess of reasonable market demand.

20. *“Well”* means any hole drilled to determine stratigraphic sequence, mineralization, or for the discovery of oil or gas.

21. The word *“and”* includes the word *“or”* and the use of the word *“or”* includes the word *“and”*. The use of the plural includes the singular and the use of the singular includes the plural.

458A.3 Waste prohibited.

Waste of oil and gas is prohibited.

458A.4 Duties and powers of director.

The director shall administer this chapter. The director shall make investigations the director deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action. The director has the authority:

1. To require:

- a. Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the refining or intrastate transportation of oil and gas;
- b. The making and filing of all mechanical well logs and the filing of directional surveys if taken, and the filing of reports on well location, drilling and production, and the filing free of charge of samples and core chips and of complete cores less tested sections when requested in the department within six months after the completion or abandonment of the well;

c. The drilling, casing, operation, and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas stratum, the pollution of fresh water supplies by oil, gas, or highly mineralized water, to prevent blowouts, cavings, seepages, and fires, and to prevent the escape of oil, gas, or water into workable coal or other mineral deposits;

d. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with this chapter, and the rules of the department prescribed to govern the production of oil and gas on state and private lands within the state of Iowa;

e. That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured by the means and upon standards prescribed by the department;

f. The operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios;

g. Certificates of clearance in connection with the transportation or delivery of any native and indigenous Iowa produced crude oil, gas, or any product;

h. Metering or other measuring of any native and indigenous Iowa produced crude oil, gas, or product in pipelines, gathering systems, barge terminals, loading racks, refineries, or other places; and

i. That every person who produces, sells, purchases, acquires, stores, transports, refines, or processes native and indigenous Iowa produced crude oil or gas in this state shall keep and maintain within this state complete and accurate records of the quantities of oil or gas, which records shall be available for examination by the department at all reasonable times, and that every such person file with the department the reports it may prescribe with respect to the oil or gas or the products of the oil or gas.

2. To regulate:

a. The drilling, producing, and plugging of wells, and all other operations for the production of oil or gas;

b. The shooting and chemical treatment of wells;

c. The spacing of wells;

d. Operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; and

e. Disposal of highly mineralized water and oil field wastes.

3. To limit and to allocate the production of oil and gas from any field, pool, or area.

4. To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter.

5. To promulgate and to enforce rules and orders to effectuate the purposes and the intent of this chapter.

6. To make rules or orders for the classification of wells as oil wells or dry natural gas wells; or wells drilled, or to be drilled, for geological information, or as wells for secondary recovery projects, or wells for the disposal of highly mineralized water, brine, or other oil field wastes, or wells for the storage of dry natural gas, or casinghead gas, or wells for the development of reservoirs for the storage of liquid petroleum gas and for the exploration and production of metallic mineral resources.

458A.5 Drilling permit required.

It is unlawful to commence operations for the drilling of a well for oil or gas or the production of metallic minerals or to commence operations to deepen any well to a different geological formation without first giving the director notice of intention to drill, and without first obtaining a permit from the director, under rules prescribed by the department and paying to the department a fee established by rule of the department for the well. The fee shall be deposited in the general fund of the state.

458A.6 Department shall determine market demand and regulate the amount of production.

The department shall determine market demand for each marketing district and regulate the amount of production as follows:

1. The department shall limit the production of oil and gas within each marketing district to that amount which can be produced without waste, and which does not exceed the reasonable market demand.

2. When the department limits the total amount of oil or gas which may be produced in the state or a marketing district, the department shall allocate or distribute the allowable production among the pools in the district on a reasonable basis, giving, where reasonable under the circumstances to each pool with small wells of settled production, an allowable production which prevents the general premature abandonment of the wells in the pool.

3. When the department limits the total amount of oil or gas which may be produced in any pool in this state to an amount less than that amount which the pool could produce if no restriction were imposed, which limitation is imposed either incidental to, or without, a limitation of the total amount of oil or gas produced in the marketing district wherein the pool is located, the department shall allocate or distribute the allowable production among the wells or producing properties in the pool on a reasonable basis, preventing or minimizing reasonable avoidable drainage, so that each property will have the opportunity to produce or to receive its just and equitable share, subject to the reasonable necessities for the prevention of waste.

4. In allocating the market demand for gas between pools within marketing districts, the department shall give due regard to the fact that gas produced from oil pools is to be regulated in a manner which will protect the reasonable use of its energy for oil production.

5. The department is not required to determine the reasonable market demand applicable to any single pool, except in relation to all other pools within the same marketing district, and in relation to the demand applicable to the marketing district. In allocating allowables to pools, the department may consider, but is not bound by nominations of purchasers to purchase from particular fields, pools, or portions thereof. The department shall allocate the total allowable for the state in a manner which prevents undue discrimination between marketing districts, fields, pools, or portions thereof resulting from selective buying or nomination by purchasers.

458A.7 Department shall set spacing units.

The department shall set spacing units as follows:

1. When necessary to prevent waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the department shall establish spacing units for a pool. Spacing units when established shall be of uniform size and shape for the entire pool, except that when found to be necessary for any of the purposes above mentioned, the department may divide any pool into zones and establish spacing units for each zone, which units may differ in size and shape from those established in any other zone.

2. The size and shape of spacing units are to be such as will result in the efficient and economical development of the pool as a whole.

3. An order establishing spacing units for a pool shall specify the size and shape of each unit and the location of the permitted well thereon in accordance with a reasonably uniform spacing plan. Upon application, if the director finds that a well drilled at the prescribed location would not produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, the director is authorized to enter an order permitting the well to be drilled at a location other than that prescribed by such spacing order; however, the director shall include in the order suitable provisions to prevent the production from the spacing unit of more than its just and equitable share of the oil and gas in the pool.

4. An order establishing units for a pool shall cover all lands determined or believed to be underlaid by the pool, and may be modified by the director from time to time to include additional areas determined to be underlaid by the pool. When found necessary for the prevention of waste, or to avoid the drilling

of unnecessary wells or to protect correlative rights, an order establishing spacing units in a pool may be modified by the director to increase the size of spacing units in the pool or any zone of the pool, or to permit the drilling of additional wells on a reasonable uniform plan in the pool, or any zone of the pool. Orders of the director may be appealed to the department within thirty days.

458A.8 Integration of fractional tracts.

1. When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the owners and royalty owners of the tracts may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling the department upon the application of any interested person, shall enter an order pooling all interests in the spacing unit for the development and operations of the unit. Each pooling order shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, a just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed for all purposes to be the conduct of the operations upon each separately owned tract in the drilling unit by the several owners of the unit. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from the tract by a well drilled on it.

2. Each pooling order shall make provision for the drilling and operation of a well on the spacing unit, and for the payment of the reasonable actual cost of the well by the owners of interests in the spacing unit, plus a reasonable charge for supervision. In the event of any dispute as to such costs the department shall determine the proper costs. If an owner shall drill and operate, or pay the expenses of drilling and operating the well for the benefit of others, then, the owner so drilling or operating shall, upon complying with the terms of section 458A.10, have a lien on the share of production from the spacing unit accruing to the interest of each of the other owners for the payment of a proportionate share of the expenses. All the oil and gas subject to the lien shall be marketed and sold and the proceeds applied in payment of the expenses secured by the lien as provided for in section 458A.10.

458A.9 Voluntary agreements for unit operation valid.

An agreement for the unit or cooperative development and operation of a field or pool, in connection with the conduct of a repressuring or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas, or any other method of operation, including water floods, may be performed without being in violation of any of the statutes of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade, if the agreement is approved by the department as being in the public interest, protective of correlative rights, and reasonably necessary to increase ultimate recovery or to prevent waste of oil or gas. The agreements bind only the persons who execute them, and their heirs, successors, assigns, and legal representatives.

458A.10 Liens for development and operating costs.

A person to whom another is indebted for expenses incurred in drilling and operating a well on a drilling unit required to be formed as provided for in section 458A.8, may, in order to secure payment of the amount due, fix a lien upon the interest of the debtor in the production from the drilling unit or the unit area, as the case may be, by filing for record, with the recorder of the county where property involved, or any part thereof, is located, an affidavit setting forth the amount due and the interest of the debtor in such production. The person to whom the amount is payable may, at the expense of the debtor, store all or any part of the production upon which the lien exists until the total amount due,

including reasonable storage charges, is paid or the commodity is sold at foreclosure sale and delivery is made to the purchaser. The lien may be foreclosed as provided for with respect to foreclosure of a lien on chattels.

458A.11 Rules covering practice before department.

1. The department shall prescribe rules governing the practice and procedure before it.
2. An order or amendment of an order, except in an emergency, shall not be made by the department without a public hearing upon at least ten days' notice. The public hearing shall be held at the time and place prescribed by the department, and any interested person is entitled to be heard.
3. When an emergency requiring immediate action is found to exist the department may issue an emergency order without notice of hearing, which shall be effective upon promulgation. An emergency order shall not remain effective for more than fifteen days.
4. Any notice required by this chapter shall be given at the election of the department either by personal service or by letter to the last recorded address and one publication in a newspaper of general circulation in the state capital city and in a newspaper of general circulation in the county where the land affected or some part of the land is situated. The notice shall issue in the name of the state, shall be signed by the director, shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. Should the department elect to give notice by personal service, the service may be made by any officer authorized to serve process, or by any agent of the department, in the same manner as is provided by law for the service of original notices in civil actions in the district court of the state. Proof of the service by such agent shall be by the affidavit of the person making personal service.
5. All orders issued by the department shall be in writing, shall be entered in full and indexed in books to be kept by the director for that purpose, and shall be public records open for inspection at all times during reasonable office hours. A copy of any rule or order certified by the director or any officer of the department shall be received in evidence in all courts of this state with the same effect as the original.
6. The department may act upon its own motion, or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the department, the department shall promptly fix a date for a hearing and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The department shall enter its order within thirty days after the hearing.

458A.12 Summoning witnesses, administering oaths, requiring production of records—hearing examiners appointed.

1. The department may summon witnesses, administer oaths, and require the production of records, books, and documents for examination at any hearing or investigation conducted. A person shall not be excused from attending and testifying, or from producing books, papers, and records before the department or a court, or from obedience to the subpoena of the department or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. However this subsection does not require a person to produce any books, papers, or records, or to testify in response to any inquiry not pertinent to some question lawfully before the department or court for determination. A natural person is not subject to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of objections, the person may be required to testify or produce as evidence, documentary or otherwise, before the department or court, or in obedience to subpoena. However, a person testifying shall not be exempted from prosecution and punishment for perjury committed in so testifying.

2. In case of failure or refusal on the part of any person to comply with the subpoena issued by the department, or in case of the refusal of any witness to testify as to any matter regarding which the witness may be interrogated, any court in the state, upon the application of the department, may issue an attachment for the person and compel the person to comply with the subpoena, and to attend before the department and produce the records, books, and documents for examination, and to give testimony. The courts may punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify.

3. The department may appoint a hearing examiner or examiners to conduct hearings required by this chapter. When appointed, the hearing examiner may exercise all of the powers delegated to the department by this section.

458A.13 Reserved.

458A.14 Appeal to district court—procedure of appeal.

Judicial review of an action of the department may be sought in accordance with the terms of chapter 17A. Notwithstanding that chapter, petitions for judicial review may be filed in the district court of Polk county or in the district court of any county in which the property affected or some portion of the property is located.

458A.15 Acquisition and handling of illegal oil and gas prohibited—seizure and sale of illegal oil and gas.

1. The sale, purchase, acquisition, transportation, refining, processing, or handling of illegal oil, illegal gas, or illegal product is prohibited. However, a penalty by way of fine shall not be imposed upon a person who sells, purchases, acquires, transports, refines, processes, or handles illegal oil, illegal gas, or illegal product unless:

a. The person knows, or is put on notice, of facts indicating that illegal oil, illegal gas, or illegal product is involved.

b. The person fails to obtain a certificate of clearance with respect to the oil, gas, or product where prescribed by order of the department, or fails to follow any other method prescribed by an order of the department for the identification of the oil, gas or product.

2. Illegal oil, illegal gas, and illegal product are declared to be contraband and are subject to seizure and sale; seizure and sale to be in addition to any other remedies and penalties provided in this chapter for violations relating to illegal oil, illegal gas, or illegal product. When the department believes that any oil, gas or product is illegal, the department acting by the attorney general, shall bring a civil action in rem in the district court of the county where the oil, gas, or product is found, to seize and sell the same, or the department may include an action in rem for the seizure and sale of illegal oil, illegal gas, or illegal product in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. Any person claiming an interest in oil, gas, or product affected by the action may intervene as an interested party in the action.

3. Actions for the seizure and sale of illegal oil, illegal gas, or illegal product shall be strictly in rem, and shall proceed in the name of the state as plaintiff against the illegal oil, illegal gas, or illegal products as defendant. No bond or similar undertaking shall be required of the plaintiff. Upon the filing of the petition for seizure and sale, the attorney general shall issue a notice, with a copy of the complaint attached thereto, which shall be served in the manner provided for service of original notices in civil actions, upon any and all persons having or claiming any interest in the illegal oil, illegal gas, or illegal products described in the petition. Service shall be completed by the filing of an affidavit by the person making the service, stating the time and manner of making such service. Any person who fails to appear and answer within the period of thirty days shall be forever barred by the judgment based on such

service. If the court, on a properly verified petition, or affidavits, or oral testimony, finds that grounds for seizure and for sale exist, the court shall issue an immediate order of seizure, describing the oil, gas, or product to be seized and directing the sheriff of the county to take such oil, gas, or product into the sheriff's custody, actual or constructive, and to hold the same subject to the further order of the court. The court, in such order of seizure, may direct the sheriff to deliver the oil, gas, or product seized by the sheriff under the order to an agent appointed by the court as the agent of the court; such agent to give bond in an amount and with such surety as the court may direct, conditioned upon the agent's compliance with the orders of the court concerning the custody and disposition of such oil, gas, or product.

4. Any person having an interest in oil, gas, or product described in an order of seizure and contesting the right of the state to the seizure and sale thereof may, prior to the sale thereof as herein provided, obtain the release thereof, upon furnishing bond to the sheriff approved by the court, in an amount equal to one hundred fifty percent of the market value of the oil, gas, or product to be released, and conditioned as the court may direct upon redelivery to the sheriff of such product released or upon payment to the sheriff of the market value thereof as the court may direct, if and when ordered by the court, and upon full compliance with the further orders of the court.

5. If the court, after a hearing upon a petition for the seizure and sale of oil, gas, or product, finds that such oil, gas, or product is contraband, the court shall order the sale thereof by the sheriff in the same manner and upon the same notice of sale as provided by law for the sale of personal property on execution of judgment entered in a civil action except that the court may order that the illegal oil, illegal gas, or illegal product be sold in specified lots or portions and at specified intervals. Upon such sale, title to the oil, gas, or product sold shall vest in the purchaser free of the claims of any and all persons having any title thereto or interest therein at or prior to the seizure thereof, and the same shall be legal oil, legal gas, or legal product, as the case may be, in the hands of the purchaser.

6. All proceeds derived from the sale of illegal oil, illegal gas, or illegal product, as above provided, after payment of costs of suit and expenses incident to the sale and all amounts paid as penalties provided for by this chapter shall be paid to the state treasurer and credited to the general fund.

458A.16 Penalties.

1. Any person who violates any provision of this chapter, or any rule or order of the department where no other penalty is provided is guilty of a simple misdemeanor.

2. If any person, for the purpose of evading this chapter, or any rule or order of the department, makes or causes to be made any false entry or statement in a report required by this chapter or by any rule or order, or makes or causes to be made any false entry in any record, account, or memorandum required by this chapter, or by any rule or order, or omits, or causes to be omitted, from any record, account, or memorandum, full, true, and correct entries as required by this chapter, or by any rule or order, or removes from this state or destroys, mutilates, alters, or falsifies any such record, account, or memorandum, the person is guilty of a fraudulent practice.

3. Any person knowingly aiding or abetting any other person in the violation of any provision of this chapter, or any rule or order of the department is subject to the same penalty as that prescribed by this chapter for the violation by the other person.

458A.17 Action to restrain violation or threatened violation. 1. If it appears that any person is violating or threatening to violate any provision of this chapter, or any rule or order of the department, the department shall bring suit against the person in the district court of any county where the violation occurs or is threatened, to restrain the person from continuing the violation or from carrying out the threat of violation. In the suit, the court has jurisdiction to grant to the department, without bond or other undertaking, the prohibitory and mandatory injunctions as the facts may warrant, including

temporary restraining orders, preliminary injunctions, temporary, preliminary, or final orders restraining the movement or disposition of any illegal oil, illegal gas, or illegal product, any of which the court may order to be impounded or placed in the custody of an agent appointed by the court.

2. If the department fails to bring suit to enjoin a violation or threatened violation of any provision of this chapter, or any rule or order of the department, within ten days after receipt of written request to do so by any person who is or will be adversely affected by the violation, the person making the request may bring suit in the person's own behalf to restrain the violation or threatened violation in any court in which the department might have brought suit. The department shall be made a party defendant in the suit in addition to the person violating or threatening to violate a provision of this chapter, or a rule or order of the department, and the action shall proceed and injunctive relief may be granted to the department or the petitioner without bond in the same manner as if suit had been brought by the department.

458A.18 Mineral rights taxed separately.

All rights and interests in or to oil, gas or other minerals underlying land, whether created by or arising under deed, lease, reservation of rights, or otherwise, which rights or interests are owned by any person other than the owner of the land, shall be assessed and taxed separately to the owner of such rights or interests in the same manner as other real estate. The taxes on such rights or interests which are not owned by the owner of the land shall not be a lien on the land.

458A.19 Rate.

In order to pay the costs of assessment and collection and provide a reasonable minimum standard of taxation, the taxes on any such rights or interests not owned by the owner of the land, shall be not less than five cents per acre.

458A.20 Tax sale—redemption by owner.

When any such rights or interests not owned by the owner of the land are sold at tax sale, and when the owner of such rights or interests does not redeem under the provisions of chapter 447 within ninety days after such tax sale, the owner of the land shall thereafter have the same right of redemption as the owner of such rights or interests has, and redemption by the owner of the land shall terminate all right of redemption of the owner of such rights or interests.

458A.21 Lease of public lands.

The state, counties and cities and other political subdivisions may lease publicly owned lands under their respective jurisdictions for the purpose of oil or gas or metallic minerals exploration and production. Any such leases shall be entered into on behalf of the state by the executive council, on behalf of a county by the board of supervisors, on behalf of a city by the council and on behalf of another political subdivision by the governing body. The leases shall be upon terms and conditions as agreed upon.

Revenues derived from the leasing of state-owned lands shall be paid into the general fund of the state. Revenues derived from the leasing of other public lands shall be paid into the general fund of the respective lessor political subdivision.

458A.22 Duty to have forfeited lease released—affidavit of noncompliance—notice to landowner—remedies.

1. When any oil, gas, or metallic mineral lease given on land situated in Iowa and recorded, becomes forfeited by failure of the lessee to comply with its provisions or the Iowa law, the lessee shall, within sixty days after date of forfeiture of the lease, have the lease surrendered in writing, duly acknowledged, and placed on record in the county where the leased land is situated. If the lessee fails to execute and

record a release of the recorded lease within the time provided for, the owner of the land may execute an affidavit of noncompliance in substantially the following form:

AFFIDAVIT OF NONCOMPLIANCE

State of Iowa)

County of) ss.

....., being first duly sworn, upon oath deposes and says that the deponent is as referred to in an (oil and gas) (metallic mineral) mining lease dated the day of (month), (year), which lease is recorded in Volume, Page, or as Instrument # of the County Records of County,, and which lease covers the following described lands:

And further, deponent says that on the day of (month), (year), under the terms of said lease, there should have been paid to the deponent or deposited to the deponent's credit in the Bank of the sum of Dollars (\$.....), the payment of which was necessary in order to keep the above described lease in force and effect. Deponent hereby swears the above payment has never been made to the deponent or the deponent's representatives, in money or otherwise, nor has same been deposited to the deponent's credit in the above bank.

And further, deponent says that there has been no drilling or development of any nature or kind whatsoever done on the land covered by the lease referred to herein, as called for under the terms of said lease.

.....
Subscribed and sworn to before me, a Notary Public for the State of Iowa, this day of (month), (year)

.....
Notary Public
My commission expires

AFFIDAVIT OF THE BANKER

State of)

County of) ss.

I,, (Cashier) (President) of the Bank of, being first duly sworn, upon my oath declare that there has not been deposited to the credit of in the Bank of, by or any other party, any sum of money whatsoever, in payment of rental under the terms of the (oil and gas) (metallic mineral) mining lease referred to in this affidavit.

Witness my hand this day of (month), (year)

.....
(Cashier) (President) of Bank
Subscribed and sworn to before me, a Notary Public for the State of Iowa on the day of (month), (year)

Notary Public
My commission expires

2. The owner of the land shall retain the original affidavit and shall mail a copy of the affidavit by restricted certified mail, as defined in section 618.15, to the lessee. If the lessee, within thirty days after receipt of the affidavit, gives notice in writing, by restricted certified mail, to the owner of the land that the lease has not been forfeited and that the lessee still claims that the lease is in full force and effect,

then the owner of the land shall be entitled to the remedies provided by this chapter for the cancellation of such disputed lease.

3. If the lessee does not notify the owner of the land as provided in subsection 2, then the owner shall file the original affidavit for recording with the county recorder, and thereafter the record of the lease shall not be notice to the public of the existence of the lease or of any interest therein or rights thereunder, and the record shall not be received in evidence in any court of the state on behalf of the lessee against the lessor, and the lease shall stand forfeited.

458A.23 Action to obtain release—damages, costs and attorney fees—attachment.

Should the owner of such lease neglect or refuse to execute a release as provided by this chapter, or contend lease is in full force and effect, then the owner of the leased premises may sue in any court of competent jurisdiction to obtain such release, and may also recover in such action the sum of one hundred dollars as damages, and all costs, together with a reasonable attorney fee for preparing and prosecuting the suit, and may also recover any additional damages that the evidence in the case will warrant. In all such actions, writs of attachment may issue as in other cases.

458A.24 Extension upon contingency—affidavit.

If a recorded lease contains the statement of any contingency upon the happening of which the term of any such lease may be extended, the owner of said lease may at any time before the expiration of the definite term of said lease file with said county recorder an affidavit setting forth the description of the lease, that the affiant is the owner thereof and the facts showing that the required contingency has happened, or the record of such lease shall not impart notice to the public of the continuance of said lease. This affidavit shall be recorded in full by the county recorder and such record together with that of the lease shall be due notice to the public of the existence and continuing validity of said lease, until the same shall be forfeited, canceled, set aside, or surrendered according to law.

458A.25 Liens for labor or materials and of contractor and subcontractor—manner of perfecting liens—enforcement of liens.

Provisions of chapter 572 as to mechanic's liens or labor and materials furnished for improvements on real estate and of contractors and subcontractors, shall apply to labor and materials furnished for gas or oil wells, or pipe lines, and such liens shall not attach on the real estate, but shall attach to the whole of the lease held, and upon the gas or oil wells, buildings and appurtenances and pipe lines for which said labor or materials were furnished, and shall be perfected and enforced as provided by said chapter.

TITLE XIV. PROPERTY.

SUBTITLE 3. LIENS.

CHAPTER 572. MECHANIC'S LIEN.

572.1. Definitions and rules of construction.

For the purpose of this chapter:

1. "*Administrator*" means the secretary of state.
2. "*Building*" shall be construed as if followed by the words "erection, or other improvement upon land".
3. "*General contractor*" includes every person who does work or furnishes materials by contract, express or implied, with an owner. "*General contractor*" does not include a person who does work or furnishes materials on contract with an owner-builder.

4. *“Labor”* means labor completed by the claimant.
5. *“Material”*, in addition to its ordinary meaning, includes machinery, tools, fixtures, trees, evergreens, vines, plants, shrubs, tubers, bulbs, hedges, bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire, fence material, fence posts, tile, and the use of forms, accessories, and equipment furnished by the claimant.
6. *“Mechanics’ notice and lien registry”* means a centralized computer database maintained on the internet by the administrator that provides a central repository for the submission and management of preliminary notices, notices of commencement of work on residential construction properties, and mechanics’ liens on all construction properties.
7. *“Mechanics’ notice and lien registry number”* means a number provided by the administrator for all residential construction properties posted to the mechanics’ notice and lien registry.
8. *“Owner”* means the legal or equitable titleholder of record.
9. *“Owner-builder”* means the legal or equitable titleholder of record who furnishes material for or performs labor upon a building, erection, or other improvement, or who contracts with a subcontractor to furnish material for or perform labor upon a building, erection, or other improvement and who offers or intends to offer to sell the owner-builder’s property without occupying or using the structures, properties, developments, or improvements for a period of more than one year from the date the structure, property, development, or improvement is substantially completed or abandoned.
10. *“Residential construction”* means construction on single-family or two-family dwellings occupied or used, or intended to be occupied or used, primarily for residential purposes, and includes real property pursuant to chapter 499B.
11. *“Subcontractor”* includes every person furnishing material or performing labor upon any building, erection, or other improvement, except those having contracts directly with the owner. *“Subcontractor”* shall include those persons having contracts directly with an owner-builder.

572.2. Persons entitled to lien.

1. Every person who furnishes any material or labor for, or performs any labor upon, any building or land for improvement, alteration, or repair thereof, including those engaged in the construction or repair of any work of internal or external improvement, and those engaged in grading, sodding, installing nursery stock, landscaping, sidewalk building, fencing on any land or lot, by virtue of any contract with the owner, owner-builder, general contractor, or subcontractor shall have a lien upon such building or improvement, and land belonging to the owner on which the same is situated or upon the land or lot so graded, landscaped, fenced, or otherwise improved, altered, or repaired, to secure payment for the material or labor furnished or labor performed.
2. If material is rented by a person to the owner, general contractor, or subcontractor, the person shall have a lien upon such building, improvement, or land to secure payment for the material rental. The lien is for the reasonable rental value during the period of actual use of the material and any reasonable periods of nonuse of the material taken into account in the rental agreement. The delivery of material to such building, improvement, or land, whether or not delivery is made by the person, creates a presumption that the material was used in the course of alteration, construction, or repair of the building, improvement, or land. However, this presumption shall not pertain to recoveries sought under a surety bond.
3. An owner-builder is not entitled to a lien under this chapter as to work the owner-builder performs, or is contractually obligated to perform, prior to transferring title to the buyer.

572.3. Collateral security before completion of work.

No person shall be entitled to a mechanic's lien who, at the time of making a contract for furnishing material or performing labor, or during the progress of the work, shall take any collateral security on such contract. [Repealed 7/1/18 SF2229]

572.4. Security after completion of work.

After the completion of such work, the taking of security of any kind shall not affect the right to establish a mechanic's lien unless such new security shall, by express agreement, be given and received in lieu of such lien.

572.5. Extent of lien.

The entire land upon which any building or improvement is situated, including that portion not covered therewith, shall be subject to a mechanic's lien to the extent of the interest therein of the person for whose benefit such material was furnished or labor performed.

572.6. In case of leasehold interest.

When the interest of such person is only a leasehold, the forfeiture of the lease for the nonpayment of rent, or for noncompliance with any of the other conditions therein, shall not forfeit or impair the mechanic's lien upon such building or improvement; but the same may be sold to satisfy such lien, and removed by the purchaser within thirty days after the sale thereof.

572.7. In case of internal improvement.

When the lien is for material furnished or labor performed in the construction, repair, or equipment of any railroad, canal, viaduct, or other similar improvement, said lien shall attach to the erections, excavations, embankments, bridges, roadbeds, rolling stock, and other equipment and to all land upon which such improvements or property may be situated, except the easement or right-of-way.

572.8. Perfection of lien.

1. A person shall perfect a mechanic's lien by posting to the mechanics' notice and lien registry internet site a verified statement of account of the demand due the person, after allowing all credits, setting forth:

- a.* The date when such material was first furnished or labor first performed, and the date on which the last of the material was furnished or the last of the labor was performed.
- b.* The legal description that adequately describes the property to be charged with the lien.
- c.* The name and last known mailing address of the owner of the property.
- d.* The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- e.* The tax parcel identification number.

2. Upon posting of the lien, the administrator shall mail a copy of the lien to the owner. If the statement of the lien consists of more than one page, the administrator may omit such pages as consist solely of an accounting of the material furnished or labor performed. In this case, the administrator shall attach a notification that pages of accounting were omitted and may be inspected on the mechanics' notice and lien registry internet site.

3. A lien perfected under this section shall be limited to the county in which the building, land, or improvement to be charged with the lien is situated. The county identified on the mechanics' notice and lien registry internet site at the time of posting the required notices pursuant to sections 572.13A and 572.13B shall be the only county in which the building, land, or improvement may be charged with a mechanic's lien.

572.9. Time of lien posting.

The statement of account required by section 572.8 shall be posted by a general contractor or subcontractor within two years and ninety days after the date on which the last of the material was furnished or the last of the labor was performed.

572.10. Perfecting lien after lapse of ninety days.

A general contractor or a subcontractor may perfect a mechanic's lien pursuant to section 572.8 beyond ninety days after the date on which the last of the material was furnished or the last of the labor was performed by posting a lien to the mechanics' notice and lien registry internet site and giving written notice thereof to the owner. Such notice may be served by any person in the manner original notices are required to be served. If the party to be served is out of the county wherein the property is situated, a return of that fact by the person charged with making such service shall constitute sufficient service from and after the time it was posted to the mechanics' notice and lien registry internet site.

572.11. Extent of lien posted after ninety days.

Liens perfected under section 572.10 shall be enforced against the property or upon the bond, if given, by the owner or by the owner-builder's buyer, only to the extent of the balance due from the owner to the general contractor or from the owner-builder's buyer to the owner-builder at the time of the service of such notice; but if the bond was given by the general contractor or owner-builder, or person contracting with the subcontractor posting the claim for a lien, such bond shall be enforced to the full extent of the amount found due the subcontractor.

572.12. Time of filing against railway.

Where a lien is claimed upon a railway, the subcontractor shall have ninety days from the last day of the month in which such labor was done or material furnished within which to file the claim therefor.

572.13. General contractor—owner notice—residential construction.

1. A general contractor who has contracted or will contract with a subcontractor to provide labor or furnish material for the property shall provide the owner with the following owner notice in writing in boldface type of a minimum size of ten points:

Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner. The mechanics' notice and lien registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property.

2. The notice described in subsection 1 shall also contain the internet site address and toll-free telephone number of the mechanics' notice and lien registry.

3. A general contractor who fails to provide notice pursuant to this section is not entitled to a lien and remedy provided by this chapter.

4. This section applies only to residential construction properties.

572.13A. Notice of commencement of work—general contractor—owner-builder.

1. A general contractor or owner-builder who has contracted or will contract with a subcontractor to provide labor or furnish material for the property shall post a notice of commencement of work to the mechanics' notice and lien registry internet site no later than ten days after the commencement of work

on the property. A notice of commencement of work is effective only as to any labor, service, equipment, or material furnished to the property subsequent to the posting of the notice of commencement of work. A notice of commencement of work shall include all of the following information:

- a.* The name and address of the owner.
- b.* The name, address, and telephone number of the general contractor or owner-builder.
- c.* The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- d.* The legal description that adequately describes the property to be charged with the lien.
- e.* The date work commenced.
- f.* The tax parcel identification number.
- g.* Any other information prescribed by the administrator pursuant to rule.

2. If a general contractor or owner-builder fails to post the required notice of commencement of work to the mechanics' notice and lien registry internet site pursuant to subsection 1, within ten days of commencement of the work on the property, a subcontractor may post the notice in conjunction with the posting of the required preliminary notice pursuant to section 572.13B. A notice of commencement of work must be posted to the mechanics' notice and lien registry internet site before preliminary notices pursuant to section 572.13B may be posted.

3. *a.* At the time a notice of commencement of work is posted on the mechanics' notice and lien registry internet site, the administrator shall assign a mechanics' notice and lien registry number and send a copy of the owner notice described in section 572.13. The owner notice shall contain the following language:

Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner. The mechanics' notice and lien registry internet site provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property. If the person or company has posted its notice or lien to the mechanics' notice and lien registry internet site, you may be required to pay the person or company even if you have paid the general contractor the full amount due. Therefore, check the mechanics' notice and lien registry internet site for information about the property including persons or companies furnishing labor or materials before paying your general contractor. In addition, when making payment to your general contractor, it is important to obtain lien waivers from your general contractor and from persons or companies registered as furnishing labor or materials to your property. The information in the mechanics' notice and lien registry is posted on the internet site of the mechanics' notice and lien registry.

b. Other relevant information may be included with the notice described in subsection 1 as prescribed by the administrator pursuant to rule.

c. The notice described in subsection 1 shall be sent to the owner's address as posted to the mechanics' notice and lien registry internet site by the general contractor, owner-builder, or subcontractor. If the owner's address is different than the property address, a copy of the notice shall also be sent to the property address, addressed to the owner if a mailing address has been assigned to the property by the United States postal service.

- d.* Notices under this section shall not be sent to owner-builders.
- 4. A general contractor who fails to provide notice pursuant to this section is not entitled to a lien and remedy provided by this chapter.
- 5. This section applies only to residential construction properties.

572.13B. Preliminary notice—subcontractor—residential construction.

1. A subcontractor shall post a preliminary notice to the mechanics' notice and lien registry internet site. A preliminary notice posted before the balance due is paid to the general contractor or the owner-builder is effective as to all labor, service, equipment, and material furnished to the property by the subcontractor. The preliminary notice shall contain all of the following information:

- a.* The name of the owner.
- b.* The mechanics' notice and lien registry number.
- c.* The name, address, and telephone number of the subcontractor furnishing the labor, service, equipment, or material.
- d.* The name and address of the person who contracted with the claimant for the furnishing of the labor, service, equipment, or material.
- e.* The name of the general contractor or owner-builder under which the claimant is performing or will perform the work.
- f.* The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- g.* The legal description that adequately describes the property to be charged with the lien.
- h.* The date the material or materials were first furnished or the labor was first performed.
- i.* The tax parcel identification number.
- j.* Any other information required by the administrator pursuant to rule.

2. At the time a preliminary notice is posted to the mechanics' notice and lien registry internet site, the administrator shall send notification to the owner, including the owner notice described in section 572.13, subsection 1, and shall post the mailing of the notice on the mechanics' notice and lien registry internet site as prescribed by the administrator pursuant to rule. Notices under this section shall not be sent to owner-builders. Upon request, the administrator shall provide proof of service at no cost for the notice required under this section.

3. *a.* A mechanic's lien perfected under this chapter is enforceable only to the extent of the balance due the general contractor or the owner-builder at the time of the posting of the preliminary notice specified in subsection 1, and, except for residential construction property owned by an owner-builder, also is enforceable only to the extent of the balance due the general contractor at the time the owner actually receives the notice provided pursuant to subsection 2 or paragraph "b".

b. (1) In any action to enforce a mechanic's lien perfected under this chapter against the owner, the subcontractor bears the burden to prove by a preponderance of the evidence that the owner received notice pursuant to subsection 2. A subcontractor may satisfy the burden of proof by providing separate notice to an owner by including but not limited to any of the following means:

- (a) By certified mail with return receipt.
- (b) By personal service in the manner original notices are required to be served.
- (c) By actual notice with a signed receipt from the owner acknowledging notice.

(2) If the subcontractor provides an affidavit of mailing, the presumption is that the owner received the notice on the fourth day of business for the post office after the notice was sent and the burden of proof shifts from the subcontractor to the owner to refute the presumption.

4. A subcontractor who fails to post a preliminary notice pursuant to this section shall not be entitled to a lien and remedy provided under this chapter.

5. This section applies only to residential construction properties.

572.14. Liability to subcontractor after payment to general contractor or owner-builder.

Except as provided in section 572.13B, payment to the general contractor or owner-builder of any part or all of the contract price of the building or improvement within ninety days after the date on which the last of the materials was furnished or the last of the labor was performed by a subcontractor, does not relieve the owner from liability to the subcontractor for the full value of any material furnished or labor performed upon the building, land, or improvement if the subcontractor posts a lien within ninety days after the date on which the last of the materials was furnished or the last of the labor was performed.

572.15. Discharge of mechanic's lien—bond.

A mechanic's lien may be discharged at any time by submitting a bond to the administrator in twice the amount of the sum for which the claim for the lien is posted, with surety or sureties, to be approved by the administrator, conditioned for the payment of any sum for which the claimant may obtain judgment upon the claim.

572.16. Rule of construction.

Nothing in this chapter shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in the owner's contract with the general contractor, unless the owner pays a part or all of the contract price to the general contractor before the expiration of the ninety days allowed by law for the posting of a mechanic's lien by a subcontractor; provided that in the case of residential construction, nothing in this chapter shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in the owner's contract with the general contractor, unless the owner pays a part or all of the contract price to the general contractor after the owner receives notice pursuant to section 572.13B, subsection 2 or section 572.13B, subsection 3, paragraph "b".

572.17. Priority of mechanics' liens between mechanics.

Mechanics' liens shall have priority over each other in the order of the posting of the statements of accounts as provided in section 572.8.

572.18. Priority over other liens.

1. Mechanics' liens posted by a general contractor or subcontractor within ninety days after the date on which the last of the material was furnished or the last of the claimant's labor was performed and for which notices were properly posted to the mechanics' notice and lien registry internet site pursuant to sections 572.13A and 572.13B shall be superior to all other liens which may attach to or upon a building or improvement and to the land upon which it is situated, except liens of record prior to the time of the original commencement of the claimant's work or the claimant's improvements, except as provided in subsection 2.

2. Construction mortgage liens shall be preferred to all mechanics' liens of claimants who commenced their particular work or improvement subsequent to the date of the recording of the construction mortgage lien. For purposes of this section, a lien is a "*construction mortgage lien*" to the extent that it secures loans or advancements made to directly finance work or improvements upon the real estate which secures the lien.

3. The rights of purchasers, encumbrancers, and other persons who acquire interests in good faith, for a valuable consideration, and without notice of a lien perfected pursuant to this chapter, are superior to the claims of all general contractors or subcontractors who have perfected their liens more than ninety days after the date on which the last of the claimant's material was furnished or the last of the claimant's labor was performed.

4. For purposes of this section, a lender who obtains an interest in the real estate by assignment of a mortgage shall be entitled to the same priority as the original mortgagee.

572.19. Priority over garnishments of the owner.

Mechanics' liens shall take priority over all garnishments of the owner for the contract debts, whether made prior or subsequent to the commencement of the furnishing of the material or performance of the labor, without regard to the date of posting the claim for such lien.

572.20. Priority as to buildings over prior liens upon land.

Mechanics' liens, including those for additions, repairs, and betterments, shall attach to the building or improvement for which the material or labor was furnished or done, in preference to any prior lien, encumbrance, or mortgage upon the land upon which such building or improvement was erected or situated except as provided in sections 572.10 and 572.11.

572.21. Foreclosure of mechanic's lien when lien on land.

In the foreclosure of a mechanic's lien when there is a superior lien, encumbrance, or mortgage upon the land the following regulations shall govern:

1. *Lien on original and independent building or improvement.* If such material was furnished or labor performed in the construction of an original and independent building or improvement commenced after the attaching or execution of such superior lien, encumbrance, or mortgage, the court may, in its discretion, order such building or improvement to be sold separately under execution, and the purchaser may remove the same in such reasonable time as the court may fix. If the court shall find that such building or improvement should not be sold separately, it shall take an account of and ascertain the separate values of the land, and the building or improvement, and order the whole sold, and distribute the proceeds of such sale so as to secure to the superior lien, encumbrance, or mortgage priority upon the land, and to the mechanic's lien priority upon the building or improvement.

2. *Lien on existing building or improvement for repairs or additions.* If the material furnished or labor performed was for additions, repairs, or betterments upon any building or improvement, the court shall take an accounting of the values before such material was furnished or labor performed, and the enhanced value caused by such additions, repairs, or betterments; and upon the sale of the premises, distribute the proceeds of such sale so as to secure to the superior mortgagee or lienholder priority upon the land and improvements as they existed prior to the attaching of the mechanic's lien, and to the mechanic's lienholder priority upon the enhanced value caused by such additions, repairs, or betterments. In case the premises do not sell for more than sufficient to pay off the superior mortgage or other superior lien, the proceeds shall be applied on the superior mortgage or other superior liens.

572.22. Record of claim.

Each claim posted to the mechanics' notice and lien registry internet site shall be properly indexed and shall contain the following items:

1. The name of the person by whom posted.
2. The date and hour of posting.
3. The amount thereof.
4. The name of the person against whom posted.
5. The legal description that adequately describes the property to be charged with the lien.
6. The tax parcel identification number of the property to be charged.
7. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.

572.23. Acknowledgment of satisfaction of claim.

1. When a mechanic's lien is satisfied by payment of the claim, the claimant shall acknowledge satisfaction thereof and, if the claimant neglects to do so for thirty days after demand in writing is personally served upon the claimant, the claimant shall forfeit and pay twenty-five dollars to the owner, general contractor, or owner-builder and be liable to any person injured to the extent of the injury.

2. If satisfaction is not acknowledged within thirty days after service of the demand in writing, the party serving the demand or causing the demand to be served may file for record with the administrator a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of this subsection, the posting shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the posting of the demand with the required attachments, the administrator shall mail a date-stamped copy of the demand to both parties.

572.24. Time of bringing action—court.

1. An action to enforce a mechanic's lien, or an action brought upon any bond given in lieu thereof, may be commenced in the district court after said lien is perfected.

2. An action to challenge a mechanic's lien may be commenced in the district court or small claims court if the amount of the lien is within jurisdictional limits. Any permissible claim or counterclaim meeting subject matter and jurisdictional requirements may be joined with the action. The court shall make written findings regarding the lawful amount and the validity of the mechanic's lien. In addition to any other appropriate order, the court may enter judgment on a permissibly joined claim or counterclaim. If the court determines that the mechanic's lien is invalid, valid for a lesser amount, frivolous, fraudulent, forfeited, expired, or for any other reason unenforceable, the clerk of the district court shall submit the ruling to the administrator who shall make a posting to the mechanics' notice and lien registry internet site regarding the proper amount of the lien or, if warranted, canceling the lien.

572.25. Place of bringing action.

An action to enforce a mechanic's lien shall be brought in the county in which the property to be affected, or some part thereof, is situated.

572.26. Kinds of action—amendment.

1. An action to enforce a mechanic's lien shall be by equitable proceedings, and no other cause of action shall be joined therewith.

2. *a.* Except as provided in paragraph "b", a claimant may only amend a lien statement by leave of court in furtherance of justice.

b. A claimant may amend a lien statement without leave of court to decrease the amount demanded, and such amendment shall be effected through the mechanics' notice and lien registry. Amendment of a lien statement pursuant to this paragraph shall not change or otherwise affect its priority.

c. A claimant shall not amend a lien statement to increase the amount demanded.

572.27. Limitation on action.

Any action to enforce a mechanic's lien shall be brought within two years from the expiration of ninety days after the date on which the last of the material was furnished or the last of the labor was performed.

572.28. Demand for bringing suit.

1. Upon the written demand of the owner served on the claimant requiring the claimant to commence

action to enforce the lien, such action shall be commenced within thirty days thereafter, or the lien and all benefits derived therefrom shall be forfeited.

2. If an action is not filed within thirty days after demand to commence action is served, the party serving the demand or causing the demand to be served may post with the administrator a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of this subsection, the record shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the posting of the demand with the required attachments, the administrator shall mail a date-stamped copy of the demand to both parties.

572.29. Assignment of lien.

A mechanic's lien is assignable, and shall follow the assignment of the debt for which it is claimed.

572.30. Action by subcontractor or owner against general contractor or owner-builder. Unless otherwise agreed, a general contractor or owner-builder who engages a subcontractor to supply labor or materials or both for improvements, alterations, or repairs to a specific residential construction property shall pay the subcontractor in full for all labor and materials supplied within thirty days after the date the general contractor or owner-builder receives full payment from the owner. If a general contractor or owner-builder fails without due cause to pay a subcontractor as required by this section, the subcontractor, or the owner by subrogation, may commence an action against the general contractor or owner-builder to recover the amount due. Prior to commencing an action to recover the amount due, a subcontractor, or the owner by subrogation, shall give notice of nonpayment of the cost of labor or materials to the general contractor or owner-builder paid for the improvement. Notice of nonpayment must be in writing, delivered in a reasonable manner, and in terms that reasonably identify the real estate improved and the nonpayment complained of. In an action to recover the amount due a subcontractor, or the owner by subrogation, under this section, the court in addition to actual damages, shall award a successful plaintiff exemplary damages against the general contractor or owner-builder in an amount not less than one percent and not exceeding fifteen percent of the amount due the subcontractor, or the owner by subrogation, for the labor and materials supplied, unless the general contractor or owner-builder does one or both of the following, in which case no exemplary damages shall be awarded:

1. Establishes that all proceeds received from the person making the payment have been applied to the cost of labor or material furnished for the improvement.

2. Within fifteen days after receiving notice of nonpayment the general contractor or owner-builder gives a bond, in an amount not less than the amount necessary to satisfy the nonpayment for which notice has been given under this section, and in a form approved by the administrator, to hold harmless the owner or person having the improvement made from any claim for payment of anyone furnishing labor or material for the improvement, other than the general contractor or owner-builder.

572.31. Cooperative and condominium housing.

A lien arising under this chapter as a result of the construction of an apartment house or apartment building which is owned on a cooperative basis under chapter 499A, or which is submitted to a horizontal property regime under chapter 499B, is not enforceable, notwithstanding any contrary provision of this chapter, as against the interests of an owner in a unit contained in the apartment house or apartment building acquired in good faith and for valuable consideration, unless a lien statement specifically describing the unit is posted under section 572.8 within the applicable time period specified in section 572.9, but determined from the date on which the last of the material was supplied or the last of the labor was performed in the construction of that unit.

572.32. Attorney fees—remedies.

1. In a court action to enforce a mechanic's lien, a prevailing plaintiff may be awarded reasonable attorney fees.
2. In a court action to challenge a mechanic's lien posted on a residential construction property, if the person challenging the lien prevails, the court may award reasonable attorney fees and actual damages. If the court determines that the mechanic's lien was posted in bad faith or the supporting affidavit was materially false, the court shall award the owner reasonable attorney fees plus an amount not less than five hundred dollars or the amount of the lien, whichever is less.

572.33. Requirement of notification for commercial construction.

1. The notification requirements in this section apply only to commercial construction.
2. A person furnishing labor or materials to a subcontractor shall not be entitled to a lien under this chapter unless the person furnishing labor or materials does all of the following:
 - a. Notifies the general contractor or owner-builder in writing with a one-time notice containing the name, mailing address, and telephone number of the person furnishing the labor or materials, and the name of the subcontractor to whom the labor or materials were furnished, within thirty days of first furnishing labor or materials for which a lien claim may be made. Additional labor or materials furnished by the same person to the same subcontractor for use in the same construction project shall be covered by this notice.
 - b. Supports the lien claim with a certified statement that the general contractor or owner-builder was notified in writing with a one-time notice containing the name, mailing address, and telephone number of the person furnishing the labor or materials, and the name of the subcontractor to whom the labor or materials were furnished, within thirty days after the labor or materials were first furnished, pursuant to paragraph "a".
3. Notwithstanding other provisions of this chapter, a general contractor or owner-builder shall not be prohibited from requesting information from a subcontractor or a person furnishing labor or materials to a subcontractor regarding payments made or payments to be made to a person furnishing labor or materials to a subcontractor.

572.33A. Liability of owner to general contractor—commercial construction.

1. An owner of a building, land, or improvement upon which a mechanic's lien of a subcontractor may be posted is not required to pay the general contractor compensation for work done or material furnished for the building, land, or improvement until the expiration of ninety days after the completion of the building or improvement unless the general contractor furnishes to the owner one of the following:
 - a. Receipts and waivers of claims for mechanics' liens, signed by all persons who furnished material or performed labor for the building, land, or improvement.
 - b. A good and sufficient bond to be approved by the owner, conditioned that the owner shall be held harmless from any loss which the owner may sustain by reason of the posting of mechanics' liens by subcontractors.
2. This section applies only to commercial construction properties.

572.34. Mechanics' notice and lien registry.

1. A mechanics' notice and lien registry is created and shall be administered by the administrator. The administrator shall adopt rules pursuant to chapter 17A for the creation and administration of the registry.
2. The mechanics' notice and lien registry shall be accessible to the general public through the administrator's internet site.

3. The registry shall be indexed by owner name, general contractor name, mechanics' notice and lien registry number, property address, legal description, tax parcel identification number, and any other identifier considered appropriate as determined by the administrator pursuant to rule.

4. Any person who posts fictitious, forged, or false information to the mechanics' notice and lien registry shall be subject to a penalty as determined by the administrator by rule in addition to all other penalties and remedies available under applicable law.

5. A person may post a correction statement with respect to a record indexed on the mechanics' notice and lien registry internet site if the person believes the record is inaccurate or wrongfully posted.

6. The administrator shall charge and collect fees as established by rule necessary for the administration and maintenance of the registry and the registry's internet site. The administrator shall not charge a posting fee for a preliminary notice required pursuant to this chapter that exceeds the cost of sending such notice by certified mail with restricted delivery and return receipt. The administrator shall not charge a posting fee that exceeds forty dollars for a mechanic's lien .

7. Notices may be posted to the mechanics' notice and lien registry electronically on the administrator's internet site, or may be sent to the administrator for posting by United States mail or facsimile transmission, or other alternate method as provided by the administrator pursuant to rule. Notices received by United States mail or facsimile transmission shall be posted by the administrator to the mechanics' notice and lien registry within three business days of receipt.

8. Mechanics' liens may be posted to the mechanics' notice and lien registry electronically on the administrator's internet site or may be sent to the administrator for posting by United States mail. Liens received by United States mail shall be posted by the administrator to the mechanics' notice and lien registry within three business days of receipt.

9. The administrator shall send a receipt acknowledging a notice or lien submitted by United States mail or facsimile transmission, as provided by the administrator by rule.

10. Information collected by and furnished to the administrator in conjunction with the submission and posting of notices pursuant to sections 572.13A and 572.13B shall be used by the administrator solely for the purposes of the mechanics' notice and lien registry.

11. Registration under chapter 91C shall not be required in order to post a notice or a lien under this chapter.

12. A preliminary notice that remains posted on the mechanics' notice and lien registry internet site two years after the date of posting shall be declared inactive by the administrator, unless renewed. A notice of commencement of work, if there are no related active postings, shall be declared inactive two years from the date of posting, unless renewed. The administrator shall establish a process for the removal of inactive notices and for the renewal of notices pursuant to rule.

13. The administrator shall make, or cause to be made, preservation duplicates of mechanics' notice and lien registry records, including records stored in a computer database. Any preservation duplicate record shall be accurate, complete, and clear, and shall be made, preserved, and made accessible to the public by means designated by the administrator by rule.