



Kansas

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CHAPTER 28. FEES AND SALARIES.

ARTICLE 1. FEES IN ALL COUNTIES AND SALARIES IN CERTAIN COUNTIES.

28-170. Court fees, civil actions; authorized only by legislative enactment; prosecuting attorneys' training fund. (a) The docket fee prescribed by K.S.A. 60-2001, and amendments thereto, and the fees for service of process, shall be the only costs assessed for services of the clerk of the district court and the sheriff in any case filed under chapter 60 or chapter 61 of the Kansas Statutes Annotated, and amendments thereto, except that

no fee shall be charged for an action filed under K.S.A. 60-3101 et seq., and under K.S.A. 60-31a01 et seq., and amendments thereto. For services in other matters in which no other fee is prescribed by statute, the following fees shall be charged and collected by the clerk. Only one fee shall be charged for each bond, lien or judgment:

1. For filing, entering and releasing a bond, mechanic's lien, notice of intent to perform, personal property tax judgment or any judgment on which execution process cannot be issued \$14
2. For filing, entering and releasing a judgment of a court of this state on which execution or other process can be issued \$24
3. For a certificate, or for copying or certifying any paper or writ, such fee as shall be prescribed by the district court.

(b) The fees for entries, certificates and other papers required in naturalization cases shall be those prescribed by the federal government and, when collected, shall be disbursed as prescribed by the federal government. The clerk of the court shall remit to the state treasurer at least monthly all moneys received from fees prescribed by subsection (a) or (b) or received for any services performed which may be required by law. The state treasurer shall deposit the remittance in the state treasury and credit the entire amount to the state general fund.

(c) In actions pursuant to the revised Kansas code for care of children, K.S.A. 2019 Supp. 38-2201 et seq., and amendments thereto, the revised Kansas juvenile justice code, K.S.A. 2019 Supp. 38-2301 et seq., and amendments thereto, the act for treatment of alcoholism, K.S.A. 65-4001 et seq., and amendments thereto, the act for treatment of drug abuse, K.S.A. 65-5201 et seq., and amendments thereto, or the care and treatment act for mentally ill persons, K.S.A. 59-2945 et seq., and amendments thereto, the clerk shall charge an additional fee of \$1 which shall be deducted from the docket fee and credited to the prosecuting attorneys' training fund as provided in K.S.A. 28-170a, and amendments thereto.

(d) Except as provided further, the bond, lien or judgment fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such bond, lien or judgment. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2019, through June 30, 2025, the supreme court may impose an additional charge, not to exceed \$22 per bond, lien or judgment fee, to fund the costs of non-judicial personnel.

CHAPTER 55. OIL AND GAS.

ARTICLE 2. LEASES AND LIENS.

55-209. Lien statement for labor or materials; filing and record in district court. (a) Any person claiming a lien, for labor or materials or both, furnished to owners of leaseholds for oil and gas purposes, as may be provided by law, shall file in the office of the clerk of the district court of the county in which the land and leasehold is situated, a statement setting forth the amount claimed and the items thereof, as nearly as practicable, the name of the owner of the land, the name of the owner of the leasehold, the name of the contractor, the name of the claimant and a description of the property subject to the lien, whether personal or real or both, verified by affidavit. If any promissory note bearing a lawful rate of interest shall have been taken for such labor or material, it shall not be necessary to file an itemized statement of labor or material furnished, but it shall be sufficient to file a copy of such note, with a sworn statement that such note or any part thereof, was given for such labor or material furnished such leaseholder or contractor, on such leasehold.

(b) Such statement shall be filed within six months after the date upon which material was last furnished or labor last performed under the contract. Immediately upon the receipt of such statement the clerk of the district court shall enter the lien in the general index the same as liens against real estate.

CHAPTER 60. PROCEDURE, CIVIL.

ARTICLE 11. LIENS FOR LABOR AND MATERIAL.

60-1101. Liens of contractors; priority. Any person furnishing labor, equipment, material, or supplies used or consumed for the improvement of real property, under a contract with the owner or with the trustee, agent or spouse of the owner, shall have a lien upon the property for the labor, equipment, material or supplies

furnished at the site of the property subject to the lien, and for the cost of transporting the same. The lien shall be preferred to all other liens or encumbrances which are subsequent to the commencement of the furnishing of such labor, equipment, material or supplies by such claimant at the site of the property subject to the lien. When two or more such contracts are entered into applicable to the same improvement, the liens of all claimants shall be similarly preferred to the date of the earliest unsatisfied lien of any of them. If an earlier unsatisfied lien is paid in full or otherwise discharged, the commencement date for all claimants shall be the date of the next earliest unsatisfied lien.

60-1102. Filing and recording of lien statement; notice of extension. (a) Filing. Any person claiming a lien on real property, under the provisions of K.S.A. 60-1101, and amendments thereto, shall file with the clerk of the district court of the county in which property is located, within four months after the date material, equipment or supplies, used or consumed was last furnished or last labor performed under the contract a verified statement showing:

- (1) The name of the owner,
- (2) the name and address sufficient for service of process of the claimant,
- (3) a description of the real property,
- (4) a reasonably itemized statement and the amount of the claim, but if the amount of the claim is evidenced by a written instrument, or if a promissory note has been given for the same, a copy thereof may be attached to the claim in lieu of the itemized statement.

(b) Recording. Immediately upon the receipt of such statement the clerk of the court shall index the lien in the general index by party names and file number.

(c) Notwithstanding subsection (a), a lien for the furnishing of labor, equipment, materials or supplies on property other than residential property may be claimed pursuant to this section within five months only if the claimant has filed a notice of extension within four months since last furnishing labor, equipment, materials or supplies to the job site. Such notice shall be filed in the office of the district court of the county where such property is located and shall be mailed by certified and regular mail to the owner. The notice of extension shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

(d) As used in this section and K.S.A. 60-1103, and amendments thereto, "residential property" means a structure which is constructed for use as a residence and which is not used or intended for use as a residence for more than two families.

60-1103. Liens of suppliers and subcontractors; procedure, recording and notice; owner's liability; notice of extension. (a) Procedure. Any supplier, subcontractor or other person furnishing labor, equipment, material or supplies, used or consumed at the site of the property subject to the lien, under an agreement with the contractor, subcontractor or owner contractor may obtain a lien for the amount due in the same manner and to the same extent as the original contractor except that:

- (1) The lien statement must state the name of the contractor and be filed within three months after the date supplies, material or equipment was last furnished or labor performed by the claimant;
- (2) if a warning statement is required to be given pursuant to K.S.A. 60-1103a, and amendments thereto, there shall be attached to the lien statement the affidavit of the supplier or subcontractor that such warning statement was properly given; and
- (3) a notice of intent to perform, if required pursuant to K.S.A. 60-1103b, and amendments thereto, must have been filed as provided by that section.

(b) Owner contractor is defined as any person, firm or corporation who:

- (1) Is the fee title owner of the real estate subject to the lien; and
- (2) enters into contracts with more than one person, firm or corporation for labor, equipment, material or supplies used or consumed for the improvement of such real property.

(c) Recording and notice. When a lien is filed pursuant to this section, the clerk of the district court shall enter the filing in the general index. The claimant shall (1) cause a copy of the lien statement to be served personally upon any one owner, any holder of a recorded equitable interest and any party obligated to pay the lien in the

manner provided by K.S.A. 60-304, and amendments thereto, for the service of summons within the state, or by K.S.A. 60-308, and amendments thereto, for service outside of the state, (2) mail a copy of the lien statement to any one owner of the property, any holder of a recorded equitable interest and to any party obligated to pay the same by restricted mail or (3) if the address of any one owner or such party is unknown and cannot be ascertained with reasonable diligence, post a copy of the lien statement in a conspicuous place on the premises. The provisions of this subsection requiring that the claimant serve a copy of the lien statement shall be deemed to have been complied with, if it is proven that the person to be served actually received a copy of the lien statement. No action to foreclose any lien may proceed or be entered against residential real property in this state unless the holder of a recorded equitable interest was served with notice in accordance with the provisions of this subsection.

(d) Rights and liability of owner. The owner of the real property shall not become liable for a greater amount than the owner has contracted to pay the original contractor, except for any payments to the contractor made: (1) Prior to the expiration of the three-month period for filing lien claims, if no warning statement is required by K.S.A. 60-1103a, and amendments thereto; or (2) subsequent to the date the owner received the warning statement, if a warning statement is required by K.S.A. 60-1103a, and amendments thereto.

The owner may discharge any lien filed under this section which the contractor fails to discharge and credit such payment against the amount due the contractor.

(e) Notwithstanding subsection (a)(1), a lien for the furnishing of labor, equipment, materials or supplies on property other than residential property may be claimed pursuant to this section, and amendments thereto, within five months only if the claimant has filed a notice of extension within three months since last furnishing labor, equipment, materials or supplies to the job site. Such notice shall be filed in the office of the clerk of the district court of the county where such property is located and shall be mailed by certified and regular mail to the general contractor or construction manager and a copy to the owner by regular mail, if known. The notice of extension shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

60-1103a. Subcontractors' liens; improvement of residential property. (a) As used in this section, "improvement of residential property" means:

(1) Improvement of a preexisting structure in which the owner resides at the time the claimant first furnishes labor, equipment, material or supplies and which is not used or intended for use as a residence for more than two families or for commercial purposes or improvement or construction of any addition, garage, fence, swimming pool, outbuilding or other improvement appurtenant to such a structure; or

(2) any construction upon real property which is (A) owned or acquired by an individual at the time the claimant first furnishes labor, equipment, material or supplies; (B) intended to become and does become the principal personal residence of that individual upon completion; and (C) not used or intended for use as a residence for more than two families or for commercial purposes.

(b) A lien for the furnishing of labor, equipment, materials or supplies for the improvement of residential property may be claimed pursuant to K.S.A. 60-1103 and amendments thereto only if the claimant has:

(1) Mailed to any one of the owners of the property a warning statement conforming with this section; or (2) in the claimant's possession a copy of a statement signed and dated by any one owner of the property stating that the general contractor or the claimant had given the warning statement conforming with this section to one such owner of the property.

(c) The warning statement provided for by this section, to be effective, shall contain substantially the following statement:

"Notice to owner: (name of supplier or subcontractor) is a supplier or subcontractor providing materials or labor on Job No. _____ at (residence address) under an agreement with (name of contractor). Kansas law will allow this supplier or subcontractor to file a lien against your property for materials or labor not paid for by your contractor unless you have a waiver of lien signed by this supplier or subcontractor. If you receive a notice

of filing of a lien statement by this supplier or subcontractor, you may withhold from your contractor the amount claimed until the dispute is settled."

(d) The warning statement provided for by this section shall not be required if the claimant's total claim does not exceed \$250.

60-1103b. Subcontractors' liens; new residential property. (a) As used in this section, "new residential property" means a new structure which is constructed for use as a residence and which is not used or intended for use as a residence for more than two families or for commercial purposes. "New residential property" does not include any improvement of a preexisting structure or construction of any addition, garage or outbuilding appurtenant to a preexisting structure.

(b) A lien for the furnishing of labor, equipment, materials or supplies for the construction of new residential property may be claimed pursuant to K.S.A. 60-1101 or 60-1103 and amendments thereto after the passage of title to such new residential property to a good faith purchaser for value only if the claimant has filed a notice of intent to perform prior to the recording of the deed effecting passage of title to such new residential property. Such notice shall be filed in the office of the clerk of the district court of the county where the property is located.

(c) The notice of intent to perform and release thereof provided for in this section, to be effective, shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

(d) When any claimant who has filed a notice of intent to perform has been paid in full or otherwise discharged, such claimant shall be required to file in the office in which the notice of intent to perform was filed, and to pay any requisite filing fee, a release of such notice and waiver of lien which shall be executed by the claimant, shall identify the property as set forth in the notice of intent to perform, and state that it is the intention of the claimant to waive or relinquish any statutory right to a lien for the furnishing of labor or material to the property. Upon such filing, the notice of intent to perform previously filed by such claimant shall be of no further force or effect, and such claimant's right to a lien under K.S.A. 60-1101 and 60-1103, and amendments thereto, shall be extinguished.

(e) Any owner of the real estate upon which a notice of intent to perform has been filed, or any owner's heirs or assigns, or anyone acting for such owner, heirs or assigns, and after payment in full to the claimant, may make demand upon the claimant filing the notice of intent to perform, for the filing of a release of the notice and waiver of lien as provided for in subsection (d), unless the same has expired by virtue of the provisions set forth in subsection (f).

(f) Notwithstanding the requirements of subsections (d) and (e), a notice of intent to perform shall be of no further force or effect after the expiration of 18 months from the date of filing the same, unless within such time the claimant has filed a lien pursuant to K.S.A. 60-1101 and 60-1103, and amendments thereto.

60-1104. Assignment. All claims for liens and rights of action to recover therefor under this act shall be assignable so as to vest in the assignee all rights and remedies herein given, subject to all defenses thereto that might be made if such assignment had not been made. Where a statement has been filed and recorded as herein provided, such assignment may be made by filing with the clerk of the court a separate instrument in writing to be attached to the original lien.

60-1105. Limitations and amendment. (a) Limitations. An action to foreclose a lien under this article shall be brought within one year from the time of filing the lien statement, but if a promissory note has been attached to the lien statement in lieu of an itemized statement, the action shall be commenced within one year from the maturity of said note.

(b) Amendment. Where action is brought to enforce a lien the lien statement may be amended by leave of the judge in furtherance of justice, except to increase the amount claimed.

60-1106. Parties. In such actions all persons whose liens are filed as herein provided, and other encumbrancers of record, except those encumbrancers whose lien has priority over the claim of the plaintiff, shall be made parties, and issues shall be made and trials had as in other cases. Where such an action is brought by a subcontractor, or person other than the original contractor, such original contractor shall be made a party defendant, and shall at his or her own expense defend against the claim of every subcontractor, or other person claiming a lien under this article, and if he or she fails to make such defense the owner may make the same at the expense of such contractor; and until all such claims, costs and expenses are finally adjudicated, and defeated or satisfied, the owner shall be entitled to retain from the contractor the amount thereof, and such costs and expenses as he or she may be required to pay. If the sheriff of the county in which such action is pending shall make return that he or she is unable to find such original contractor, the court may proceed to adjudicate the liens upon the land and render judgment to enforce the same with costs.

60-1107. Stay of proceedings. In any action to foreclose a lien under this article if the building or other improvement is still in course of construction, the judge on application of any party engaged in furnishing labor or materials for such building or improvement, may stay the trial thereof for a reasonable time to permit the filing of a lien statement by such party under the provisions of this act.

60-1108. Action by landowner for adjudication, cancellation. If any lien or liens are filed under the provisions of this article and no action to foreclose any of such liens is commenced, the owner of the land may file such owner's petition in the district court of the county in which such land is situated, making such lien claimants defendants therein, and praying for an adjudication of such lien or liens so claimed. If any such lien claimant shall fail to establish such claimant's lien, the court may tax against such claimant the whole or such portion of the costs of such action as may be just. If no action to foreclose or adjudicate any lien filed under the provisions of this article shall be instituted within the time provided in subsection (a) of K.S.A. 60-1105, and amendments thereto, the lien shall be considered canceled by limitation of law.

60-1109. Pro rata distribution. If the proceeds of the sale be insufficient to pay all the claimants, then the court shall order them to be paid in proportion to the amount due each.

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