

CHAPTER 35-13 REPAIRMAN'S LIEN

35-13-01. Repairman's lien authorized.

Any blacksmith, machinist, farm equipment dealer, construction equipment dealer, welder, garage keeper, mechanic, or aviation operator, having an established place of business in this state who makes, alters, or repairs any automobile, truck, engine, combine, tractor, farm equipment, construction equipment, well machine, aircraft, or watercraft at the request of the owner or legal possessor of the property has a lien on that property, and on any accessories and parts placed upon the property, for reasonable charges for work done, materials furnished, storage fees, and transportation costs, until the charges are paid. If the cost of repair would exceed six thousand dollars or thirty percent or, fifteen thousand dollars or thirty percent for property used for agricultural or construction purposes, of the value of the property, in the property's repaired condition, whichever is greater, and the repairman intends to have the entire repair bill constitute a lien with priority over any liens of record, the repairman shall give notice by registered or certified mail to the lienholders of record of the proposed repair, the estimated cost of repair, and the estimated value of the property in its repaired condition. Storage fees under this chapter may not begin to accrue until fifteen days after the owner is requested to take possession of the property.

35-13-02. Lien statement - Contents - When required - Filing.

1. The secretary of state shall prescribe an electronic system that can be used to obtain a lien under this section and also be entered in the central indexing system. A person entitled to a lien under this chapter who retains possession of the property made, altered, or repaired is not required to file any statement to perfect the lien. If the possession of the property so made, altered, or repaired is relinquished, the person shall file electronically, within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, after the materials are furnished or the labor is completed, in the central indexing system, a statement showing:
 - a. The labor performed.
 - b. The materials furnished.
 - c. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
 - d. The name and address of the person for whom the labor was performed or to whom the materials were furnished.
 - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the labor was performed or to whom the materials were furnished.
 - f. The name and address of the person claiming the lien.
 - g. A description of the property upon which the lien is claimed.
2. A person filing a statement shall within thirty days serve notice of the filing, by registered mail, upon the owner or legal possessor of the property. A person entitled to the lien who fails to file a statement within the time limited in this section is deemed to have waived the right to a lien.
3. A lienholder may file electronically an amendment to add or correct the social security number or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall provide a means to amend electronically the repairman's lien that has been filed pursuant to this section. The amendment of the lien does not affect the priority of the lien.

35-13-03. Separate articles of personal property may be included in one lien statement.

Any person entitled to a lien under this chapter who makes, alters, or repairs more than one article of personal property for the same owner or legal possessor may include all the articles of personal property so made, altered, or repaired within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, preceding the filing of the lien statement in the same statement, and the statement has the same force and effect as though a separate statement had been filed for each article.

35-13-04. Priority of lien.

A lien obtained under this chapter has priority over all other liens, chattel mortgages, or encumbrances against the personal property upon which the lien is secured, but if the repairman has failed to notify the lienholder of record as provided in section 35-13-01, or if such notice was given and the lienholder of record, within five days after receiving such notice, communicated in writing to the repairman an objection to all the proposed repair costs becoming a lien against the property with priority over the existing liens of record, then only that portion of the repairman's lien up to six thousand dollars or thirty percent, or fifteen thousand dollars or thirty percent for property used for agricultural or construction purposes, of the retail value, whichever is greater, in the property's repaired condition, has priority over the existing lien of record.

35-13-05. Notice before foreclosure.

1. A person holding a lien under this chapter on property encumbered by prior liens of record or before beginning any action or proceeding for the foreclosure of the lien, shall give ten days' notice in writing of the lienholder's intention to foreclose the lien to the lienholders of record and the owner of the property. The notice may be served by registered or certified mail addressed to the lienholders of record and property owner at the lienholders and property owner's last-known post-office address.
2. The notice before foreclosure must include:
 - a. A description of the property subject to the lien;
 - b. The grounds for the lien;
 - c. The name, address, and telephone number of the lienholder;
 - d. The amount owed;
 - e. The date after which the property subject to the lien will be offered for sale; and
 - f. A statement that the lienholder of record or property owner may reclaim the property subject to the lien before the property is offered for sale by paying the amount owed.

35-13-06. Lienholder may pay amount of lien - Assignment of lien.

The record lienholder of any lien against property on which a lien has been filed under this chapter may pay the amount due on the lien at any time before a sale upon the foreclosure of the property. Upon payment of the lien by a lienholder, the holder of the lien shall assign it to the lienholder, and the lienholder then is entitled to all the rights which the person filing the lien had before the lien was paid.

35-13-07. Nonjudicial disposition of property.

The person holding a lien under this chapter has the rights of a secured party under article nine of the Uniform Commercial Code for purposes of nonjudicial disposition of the property. A person holding a lien under this chapter who chooses to use nonjudicial disposition of the property shall dispose of the property in the manner prescribed for security interests under article nine of the Uniform Commercial Code.