

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 519

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

AN ACT

RELATING TO LIENS; PROVIDING FOR NOTICE OF RESIDENTIAL LIENS;  
PROVIDING FOR THE DISCHARGE OF ALL LIENS UPON FULL PAYMENT FOR  
LABOR PERFORMED AND MATERIALS USED ON A RESIDENTIAL SITE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 48-2A-11 NMSA 1978 (being Laws 1989,  
Chapter 301, Section 11) is amended to read:

"48-2A-11. NOTICE OF LIEN--DISCHARGE--PENALTY.--

A. No lien that is claimed on a residential  
property containing four dwelling units or fewer shall be filed  
for record pursuant to Section 48-2-6 NMSA 1978 or recorded in  
the office of the county clerk without notice of return receipt  
pursuant to certified mail, return receipt requested, signed by  
the residential property's owner or owner's successor in  
interest and notice of return receipt pursuant to certified

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1 mail, return receipt requested, signed by the original  
2 contractor, if any. No lien that is claimed on a residential  
3 property containing four dwelling units or fewer and that is  
4 recorded in the office of the county clerk may be enforced by  
5 action or considered of record unless the notice signed by the  
6 residential property's owner or owner's successor in interest,  
7 and the notice signed by the original contractor, if any, is  
8 filed with the recorded lien.

9           B. Payment, and notice of that payment, by the  
10 owner or [~~his~~] the owner's successor in interest to any person  
11 entitled to payment of all and any amounts due and owing for  
12 any labor or materials furnished or other actions the  
13 performance of which could give rise to a lien pursuant to  
14 Section 48-2-2 NMSA 1978 to be performed upon a residential  
15 site shall discharge and render void and unenforceable all such  
16 liens [~~unless prior to payment any person who is entitled to~~  
17 ~~such lien has~~] filed for record [~~his lien~~] pursuant to Section  
18 48-2-6 NMSA 1978 on that residential site; provided that the  
19 notice of payment or a release of lien is filed for record with  
20 the county clerk of the county in which the residential  
21 property or some part thereof is situated. For the purposes of  
22 this section, the original contractor shall not be the agent of  
23 the owner.

24           [~~B.~~] C. Any contractor or subcontractor justly  
25 indebted to a supplier of material or labor who accepts payment

1 for construction described in Subsection [A] B of this section  
2 and knowingly and intentionally applies the proceeds to a use  
3 other than paying those persons with whom [~~he~~] the contractor  
4 or subcontractor contracted is guilty of a fourth degree felony  
5 and shall be sentenced pursuant to the provisions of Section  
6 31-18-15 NMSA 1978."

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