

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 43-4 of the Code of Virginia, relating to mechanic's liens; certification*
3 *of mailing.*

4 [H 2580]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 43-4 of the Code of Virginia is amended and reenacted as follows:**

8 § 43-4. Perfection of lien by general contractor; recordation and notice.

9 A general contractor, or any other lien claimant under §§ 43-7 and 43-9, in order to perfect the lien
10 given by § 43-3, provided such lien has not been barred by § 43-4.01 C, shall file a memorandum of
11 lien at any time after the work is commenced or material furnished, but not later than 90 days from the
12 last day of the month in which he last performs labor or furnishes material, and in no event later than
13 90 days from the time such building, structure, or railroad is completed, or the work thereon otherwise
14 terminated. The memorandum shall be filed in the clerk's office in the county or city in which the
15 building, structure or railroad, or any part thereof is located. The memorandum shall show the names of
16 the owner of the property sought to be charged, and of the claimant of the lien, the amount and
17 consideration of his claim, and the time or times when the same is or will be due and payable, verified
18 by the oath of the claimant, or his agent, including a statement declaring his intention to claim the
19 benefit of the lien, and giving a brief description of the property on which he claims a lien. It shall be
20 the duty of the clerk in whose office the memorandum is filed to record and index the same as provided
21 in § 43-4.1, in the name of the claimant of the lien and of the owner of the property. From the time of
22 such recording and indexing all persons shall be deemed to have notice thereof. A lien claimant who is
23 a general contractor, *and not lien claimants under §§ 43-7 and 43-9*, also shall file along with the
24 memorandum of lien, a certification of mailing of a copy of the memorandum of lien on the owner of
25 the property at the owner's last known address. The cost of recording the memorandum shall be taxed
26 against the person found liable in any judgment or decree enforcing such lien. The lien claimant may
27 file any number of memoranda but no memorandum filed pursuant to this chapter shall include sums
28 due for labor or materials furnished more than 150 days prior to the last day on which labor was
29 performed or material furnished to the job preceding the filing of such memorandum. However, any
30 memorandum may include (i) sums withheld as retainages with respect to labor performed or materials
31 furnished at any time before it is filed, but not to exceed 10 percent of the total contract price and (ii)
32 sums which are not yet due because the party with whom the lien claimant contracted has not yet
33 received such funds from the owner or another third party. The time limitations set forth herein shall
34 apply to all labor performed or materials furnished on construction commenced on or after July 1, 1980.

ENROLLED

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