

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 26-0437.01 Alison Killen x4350

SENATE BILL 26-074

SENATE SPONSORSHIP

Carson,

HOUSE SPONSORSHIP

Camacho,

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING CLARIFICATION OF THE PENALTY FOR CLAIMING AN**
102 **EXCESSIVE AMOUNT IN A PUBLIC CONSTRUCTION PERFORMANCE**
103 **BOND DISPUTE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Currently, a contractor on a private construction project has a statutory right to secure payment with a general mechanic's lien. However, if the contractor knowingly files on the lien for an excessive amount, the contractor forfeits all rights only to the lien and is liable to the person against whom the lien was filed for costs and attorney fees. A

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

contractor on a public construction project has a similar right to secure payment by filing a verified statement of claim (VSOC), which requires the project owner to withhold funds sufficient to pay the claim, usually in the form of a bond. The bill clarifies that a public construction contractor who knowingly files a VSOC or asserts a bond claim for an excessive amount forfeits all rights only pursuant to the laws for public construction project bonds and liens to recover the amount claimed. Thus, the bill aligns, for both a private and public construction contractor, the penalty for claiming an excessive amount on a lien or bond to the loss of all statutory rights related to that lien or bond, respectively.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 38-26-110, **amend**

3 (1) introductory portion as follows:

4 **38-26-110. Excessive amounts claimed.**

5 (1) Any person who files a verified statement of a claim or asserts
6 a claim against a principal or surety that has furnished a bond under this
7 ~~article~~ ARTICLE 26 for an amount greater than the amount due without a
8 reasonable possibility that the amount claimed is due and with the
9 knowledge that the amount claimed is greater than the amount due, and
10 that fact is demonstrated in any proceedings under this ~~article~~ ARTICLE 26,
11 shall forfeit all rights ~~CREATED PURSUANT TO THIS ARTICLE 26 TO RECOVER~~
12 the amount claimed and shall be liable to the following in an amount
13 equal to all costs and all attorney fees reasonably incurred in bonding
14 over, contesting, or otherwise responding in any way to the excessive
15 verified statement of claim or excessive bond claim:

16 **SECTION 2. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2026 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.