

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0437.01 Alison Killen x4350

SENATE BILL 26-074

SENATE SPONSORSHIP

Carson and Snyder, Liston, Pelton R.

HOUSE SPONSORSHIP

Camacho,

Senate Committees
Judiciary

House Committees
Judiciary

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.

SENATE
3rd Reading Unamended
February 17, 2026

SENATE
2nd Reading Unamended
February 12, 2026

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, 38-22-101, **amend**
3 (1); and **add** (7) as follows:

4 **38-22-101. Liens in favor of whom - when filed.**

5 (1) Every person who furnishes or supplies laborers, machinery,
6 tools, or equipment in the prosecution of the work, and mechanics,
7 materialmen, contractors, subcontractors, builders, and all persons of
8 every class performing labor upon or furnishing directly to the owner or
9 persons furnishing labor, laborers, or materials to be used in construction,
10 alteration, improvement, addition to, or repair, either in whole or in part,
11 of any building, mill, bridge, ditch, flume, aqueduct, reservoir, tunnel,
12 fence, railroad, wagon road, tramway, or any other structure or
13 improvement upon land, including adjacent curb, gutter, and sidewalk,
14 and also architects, engineers, draftsmen, and artisans who have furnished
15 designs, plans, plats, maps, specifications, drawings, estimates of cost,
16 surveys, or superintendence, or who have rendered other professional or
17 skilled service, or bestowed labor in whole or in part, describing or
18 illustrating, or superintending such structure, or work done or to be done,
19 or any part connected therewith, shall have a lien upon the property upon
20 which they have furnished laborers or supplied machinery, tools, or

1 equipment or rendered service or bestowed labor or for which they have
2 furnished materials or mining or milling machinery or other fixtures, for
3 the value, WHETHER DISPUTED OR UNDISPUTED, of such laborers,
4 machinery, tools, or equipment supplied, or services rendered or labor
5 done or laborers or materials furnished, whether at the instance of the
6 owner, or of any other person acting by the owner's authority or under the
7 owner, as agent, contractor, or otherwise for the laborers, machinery,
8 tools, or equipment supplied, or work or labor done or services rendered
9 or laborers or materials furnished by each, respectively, whether supplied
10 or done or furnished or rendered at the instance of the owner of the
11 building or other improvement, or the owner's agent; and every
12 contractor, architect, engineer, subcontractor, builder, agent, or other
13 person having charge of the construction, alteration, addition to, or repair,
14 either in whole or in part, of said building or other improvement shall be
15 held to be the agent of the owner for the purposes of this article.

16 (7) NOTHING IN THIS ARTICLE 22 PROHIBITS THE INCLUSION OF
17 COSTS OTHERWISE ALLOWED UNDER A CONTRACT IN A LIEN, INCLUDING
18 COSTS INCURRED AS A RESULT OF DELAY, LOST PRODUCTIVITY, OR OTHER
19 DISRUPTION TO THE WORK.

20 **SECTION 2.** In Colorado Revised Statutes, 38-22-128, **add** (2)
21 and (3) as follows:

22 **38-22-128. Excessive amounts claimed.**

23 (2) AN AWARD BY A COURT HAVING JURISDICTION OF AN AMOUNT
24 THAT IS LESS THAN THE AMOUNT FOR WHICH A PERSON'S LIEN WAS FILED
25 DOES NOT RENDER THE AMOUNT EXCESSIVE FOR PURPOSES OF SUBSECTION
26 (1) OF THIS SECTION IF THE PERSON HAD A GOOD FAITH BASIS TO BELIEVE
27 THE LIEN AMOUNT WAS DUE AT TIME OF FILING.

1 (3) FOR PURPOSES OF THIS SECTION, AN AMOUNT IS "DUE" IF A
2 PERSON REASONABLY BELIEVES, IN GOOD FAITH, THAT THE AMOUNT
3 REPRESENTS THE VALUE OF THE LABOR, SERVICES, EQUIPMENT, OR OTHER
4 MATERIALS OR PERSONS FURNISHED OR SUPPLIED TO A CONTRACTOR, AS
5 DESCRIBED IN SECTION 38-22-101 (1), WHETHER OR NOT THE AMOUNT IS
6 UNLIQUIDATED OR DISPUTED.

7 **SECTION 3.** In Colorado Revised Statutes, 38-26-107, **amend**
8 (1) as follows:

9 **38-26-107. Supplier may file statement - notice - withholding**
10 **funds.**

11 (1) Any person, as defined in section 2-4-401 (8), ~~C.R.S.~~, that has
12 furnished labor, materials, EQUIPMENT, SERVICES, sustenance, or other
13 supplies used or consumed by a contractor or ~~his or her~~ THEIR
14 subcontractor in or about the performance of the work contracted to be
15 done or that supplies laborers, rental machinery, tools, or equipment to
16 the extent used in the prosecution of the work whose claim therefor has
17 not been paid by the contractor or the subcontractor may, at any time up
18 to and including the time of final settlement for the work contracted to be
19 done, file with the board, officer, person, or other contracting body by
20 whom the contract was awarded a verified statement of the amount due
21 and unpaid on account of the claim, WHETHER THE AMOUNT IS DISPUTED
22 OR UNDISPUTED. NOTHING IN THIS ARTICLE 26 PROHIBITS THE INCLUSION
23 OF COSTS OTHERWISE ALLOWED UNDER A CONTRACT IN A VERIFIED
24 STATEMENT OF CLAIM, INCLUDING COSTS INCURRED AS A RESULT OF
25 DELAY, LOST PRODUCTIVITY, OR OTHER DISRUPTION TO THE WORK. If the
26 amount of the contract awarded to the contractor exceeds one hundred
27 fifty thousand dollars, the board, officer, person, or other contracting

1 body by whom the contract was awarded shall, no later than ten days
2 before the final settlement is made, publish a notice of the final settlement
3 at least twice in a newspaper of general circulation in any county where
4 the work was contracted for or performed or in an electronic medium
5 approved by the executive director of the department of personnel. It is
6 unlawful for any person to divide a public works contract into two or
7 more separate contracts for the sole purpose of evading or attempting to
8 evade the requirements of this subsection (1).

9 **SECTION 4.** In Colorado Revised Statutes, 38-26-110, **amend**
10 (1) introductory portion; and **add** (2) and (3) as follows:

11 **38-26-110. Excessive amounts claimed.**

12 (1) Any person who files a verified statement of a claim or asserts
13 a claim against a principal or surety that has furnished a bond under this
14 ~~article~~ ARTICLE 26 for an amount greater than the amount due without a
15 reasonable possibility that the amount claimed is due and with the
16 knowledge that the amount claimed is greater than the amount due, and
17 that fact is demonstrated in any proceedings under this ~~article~~ ARTICLE 26,
18 shall forfeit all rights to the ~~amount claimed~~ VERIFIED STATEMENT
19 OF CLAIM and shall be liable to the following in an amount equal to all
20 costs and all attorney fees reasonably incurred in bonding over,
21 contesting, or otherwise responding in any way to the excessive verified
22 statement of claim or excessive bond claim:

23 (2) AN AWARD BY A COURT HAVING JURISDICTION OF AN AMOUNT
24 THAT IS LESS THAN THE AMOUNT IN A PERSON'S VERIFIED STATEMENT OF
25 CLAIM DOES NOT RENDER THAT AMOUNT EXCESSIVE FOR PURPOSES OF
26 SUBSECTION (1) OF THIS SECTION IF THE PERSON HAD A GOOD FAITH BASIS
27 TO BELIEVE THE AMOUNT IN THE VERIFIED STATEMENT OF CLAIM WAS DUE

1 AT THE TIME OF FILING.

2 (3) FOR PURPOSES OF THIS SECTION, "AMOUNT DUE" MEANS THE
3 AMOUNT OF MONEY A PERSON REASONABLY BELIEVES, IN GOOD FAITH,
4 REPRESENTS THE VALUE OF THE LABOR, MATERIALS, SUSTENANCE, OTHER
5 SUPPLIES, LABORERS, RENTAL MACHINERY, TOOLS, OR EQUIPMENT,
6 FURNISHED OR SUPPLIED TO A CONTRACTOR, AS DEFINED IN SECTION
7 38-26-101, OR THEIR SUBCONTRACTOR, WHETHER OR NOT THE AMOUNT IS
8 UNLIQUIDATED OR DISPUTED, AS SET FORTH IN SECTION 38-26-107 (1).

9 **SECTION 5. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2026 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.