

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: S3/31/99

## A Bill

HOUSE BILL 1612

5 By: Representative Cook  
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### For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §18-44-114 TO  
9 EXEMPT DIRECT SALES FROM THE MATERIALMAN'S LIENS  
10 NOTICE REQUIREMENTS; AND FOR OTHER PURPOSES."

### Subtitle

11  
12 "TO AMEND ARKANSAS CODE ANNOTATED §18-44-  
13 114 TO EXEMPT DIRECT SALES FROM THE  
14 MATERIALMAN'S LIENS NOTICE REQUIREMENTS."  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code 18-44-114 is amended to read as follows:  
20 "18-44-114. Notice and service generally.

21 (a) Every person, except the original contractor, who may wish to avail  
22 himself of the benefit of the provisions of this subchapter shall give ten  
23 (10) days' notice before the filing of the lien, as required in § 18-44-  
24 117(a), to the owner, owners, or agent, or either of them, that he holds a  
25 claim against the building or improvement, setting forth the amount and from  
26 whom it is due. However, if the transaction is a direct sale to the property  
27 owner, this notice requirement shall not apply, and the lien rights arising  
28 under this subchapter shall not be conditioned on delivery and execution of  
29 the notice. For purposes of this subsection, a sale shall be considered a  
30 direct sale when the owner or owners orders the materials from the lien  
31 claimant.

32 (b)(1) The notice may be served by any officer authorized by law to  
33 serve process in civil actions, by any person who would be a competent  
34 witness, or by any form of mail addressed to the person to be served with a  
35 return receipt requested and delivery restricted to the addressee or the agent  
36 of the addressee.

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1                   (2) When served by an officer, his official return endorsed  
2 thereon shall be proof thereof; when served by any other person, the fact of  
3 the service shall be verified by affidavit of the person so serving; and when  
4 served by mail, the service shall be verified by a return receipt signed by  
5 the addressee or the agent of the addressee, or a returned envelope, postal  
6 document, or affidavit by a postal employee reciting or showing refusal of the  
7 notice by the addressee. If delivery of the mailed notice is refused by the  
8 addressee, then the person holding the claim shall immediately mail to the  
9 owner, owners, or agent a copy of the notice by first class mail and may  
10 proceed to file his lien."

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12                   SECTION 2. All provisions of this Act of a general and permanent nature  
13 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
14 Revision Commission shall incorporate the same in the Code.

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16                   SECTION 3. If any provision of this Act or the application thereof to  
17 any person or circumstance is held invalid, such invalidity shall not affect  
18 other provisions or applications of the Act which can be given effect without  
19 the invalid provision or application, and to this end the provisions of this  
20 Act are declared to be severable.

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22                   SECTION 4. All laws and parts of laws in conflict with this Act are  
23 hereby repealed.

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*/s/ Cook*

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