

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1781

H.P. 1303

House of Representatives, December 22, 2003

An Act To Amend the Laws Governing Mechanics' Liens

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PELLON of Machias.
Cosponsored by Senator STANLEY of Penobscot and
Representatives: DUNLAP of Old Town, DUPLESSIE of Westbrook, GOODWIN of
Pembroke, MAILHOT of Lewiston, O'NEIL of Saco, PERRY of Calais, RICHARDSON of
Brunswick, WATSON of Bath.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 10 MRSA §3253**, as amended by PL 1975, c. 91, §1, is further amended to read:

6 **§3253. Dissolution unless claim filed**

8 The lien mentioned in section 3252 shall must be dissolved, unless the claimant, within 90 days after ~~he ceases to labor, furnish materials or perform services~~ final acceptance by the owner of the project described in section 3251, files in the office of the register of deeds in the county or registry district in which such the building, wharf or pier is situated a true statement of the amount due ~~him~~ the claimant, with all just credits given, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, and the names of the owners, if known; which shall must be subscribed and sworn to by the person claiming the lien, or by someone in ~~his~~ the person's behalf, and recorded in a book kept for that purpose by the register of deeds for said the county or registry district, ~~who~~ which is entitled to the same fees ~~therefor~~ as for recording mortgages. This section shall does not apply where the labor, materials or services are furnished by a contract with the owner of the property affected.

26 **Sec. 2. 10 MRSA §3255, sub-§1**, as amended by PL 1981, c. 585, §2, is further amended to read:

28 **1. Enforcement by action.** The liens mentioned in sections 30 3251 to 3254 may be preserved and enforced by action against the debtor and owner of the property affected and all other parties 32 interested ~~therein~~, filed with the Superior Court or District Court clerk in the county or division where the house, building 34 or appurtenances, wharf, or pier or building thereon on the wharf or pier, on which a lien is claimed, is situated, within 120 days 36 after ~~the last of the labor or services are performed or labor, materials or services are so furnished~~ final acceptance by the owner of the project described in section 3251, except as 38 provided in section 3256.

40 **Sec. 3. 10 MRSA §3257**, as amended by PL 1981, c. 585, §3, is further amended to read:

44 **§3257. Allegations of complaint; joinder of parties**

46 The complaint shall must state that the plaintiff claims a lien on the house, building or appurtenances, or on the wharf, or pier or building thereon on the wharf or pier, as ~~the case may be~~, described therein in the lien, and the land on which it 48 stands, for labor or services performed or for labor, materials or services furnished, in erecting, altering, moving or repairing 50

2 said the house, building or appurtenances, or in constructing,
3 altering or repairing said the wharf, or pier or building ~~thereon~~
4 ~~on the wharf or pier, as the case may be,~~ whether it was by
5 ~~virtue of~~ with a contract with or by consent of the owner, and if
6 not, that the claimant has complied with section 3253. The
7 complaint ~~shall pray~~ must require that the property be sold and
8 the proceeds applied to the discharge of such the lien. Two or
9 more lienors may join in filing and prosecuting such a
10 complaint. Other lienors may be made parties. Other lienors may
11 become parties and preserve and enforce their liens on said the
12 property, provided their complaints ~~therefor, setting forth~~
13 describe their claims in substance as required in a complaint be
14 filed with the clerk within 120 days after ~~the last labor or~~
15 ~~services are performed or the last labor, materials or services~~
16 ~~are furnished by them~~ final acceptance by the owner of the
17 project described in section 3251 or within the additional time
18 prescribed in section 3256. If a court finds that in the
19 interest of justice an action claiming a lien on property should
20 be located in another court of this State, the court making the
21 finding may transfer the action to the other court. The court
22 may consolidate 2 or more actions claiming liens on the same
23 property into one proceeding, if justice ~~shall so require~~
24 requires. Any mortgagee or other person having a claim upon, or
25 interested legally or equitably in, said the property may be made
26 a party. The court shall ~~have power to~~ determine all questions
27 of priority of lien or interest, if any, between parties to the
28 proceeding.

30 SUMMARY

32 This bill amends the laws governing mechanics' liens
33 regarding when such a lien dissolves and when such a lien may be
34 preserved and enforced by action against the debtor and owner of
35 the property affected. It clarifies that the final owner of the
36 project must make final acceptance of the claim.