

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-1114)
107TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 2126, L.D. 2274, Bill,
"AN ACT to Protect Owners and Bona Fide Purchasers of Real Property
from Unrecorded Mechanics' Liens and to Protect Them from Double
Payment to Contractors and Subcontractors."

Amend said Bill in that part designated "§3255." in sub-
section 2 in the 2nd and 5th lines from the end (same in L.D.)
by striking out the underlined figure "90" and inserting in
place thereof the underlined figure '120'

Further amend said Bill in that part designated "§3255."
by striking out all of subsection 3 and inserting in place thereof
the following:

3. Notice to owner. If the labor, materials or services
were not performed or furnished by a contract with the owner of
the property affected, the lien described in this chapter may
only be enforced against the property affected to the extent of
the balance due to the person with whom the owner has directly
contracted to perform or furnish the labor, materials and services
on which that lien claim is based. The defense established by
this subsection shall only be available with respect to sums
paid by the owner to the person with whom the owner has directly
contracted where payment was made prior to commencement of an action
to enforce such lien by the person performing or furnishing labor,
materials or services without a contract with the owner or a
written notice from the person performing or furnishing labor,
materials or services without a contract with the owner which sets
forth a description of the property sufficiently accurate to identify

it; the names of the owners; that the person giving notice is going to perform or furnish, is performing or furnishing or has performed or furnished labor, materials or services; that the person giving notice may claim a lien therefor and which shall contain the following warning at the top of the notice:

Under Maine law, your failure to assure that _____ (name of _____ the claimant giving notice) is paid before further payment by you to _____ (name of contractor) may result in your paying twice.

In no case shall the total amount due from the owner to those performing or furnishing labor, materials or services without a contract with the owner exceed the balance due from the owner to the person with whom he has directly contracted at the time of service of process on the owner in a lien action or receipt of the written notice described above, whichever occurs first.

§-----If the owner does not reside in the place where the property is located, but has a known agent therein, notice may be given to the agent or to the owner at the place where he resides. Notice only to an owner shall preserve an otherwise valid lien only against such owner and not against a mortgagee of the property

affected unless such mortgagee has actual notice of such lien or notice as provided herein. If the notice provided by this subsection is given, the lien claimant must also comply with the notice requirements of section 3253 and commence the legal action required by subsection 1 to the extent that this compliance is required in order to preserve his lien claim.

This subsection shall not apply where labor, materials or services are performed or furnished to the premises for a business, commercial or industrial purpose unless the owner resides on the premises affected.'

Statement of Fact

The purposes of this amendment are clarification, an increase in the effective time period for recorded notices in subsection 2 of the bill from 90 to 120 days and to provide that the defense to lien claims provided by subsection 3 of the bill shall only apply to sums paid by the owner to the person with whom he has a contract prior to the owner's receipt of service of process in a lien claim action or the written notice provided for in subsection 3 of the bill.

Reported by the Majority of the Committee on Judiciary.

Reproduced and distributed under the direction of the Clerk of the House.

3/26/76

(Filing No. H-1114)