

MAINE STATE LEGISLATURE

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L.D. 1749

(Filing No. S-394)

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STATE OF MAINE
SENATE
110TH LEGISLATURE
SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to S.P. 746, L.D. 1749, Bill,
"AN ACT to Provide the District Courts with Concurrent
Jurisdiction Over Mechanics Lien Actions."

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Amend the bill by inserting at the beginning of the
first line after the enacting clause the abbreviation and
figure 'Sec. 1.'

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Further amend the bill by inserting before the state-
ment of fact the following:

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'Sec. 2 10 MRSA §3255, sub-§1, as enacted by PL 1975,
c. 734, is amended to read:

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1. Enforcement by action. The liens mentioned in sec-
tions 3251 to 3254 may be preserved and enforced by action
against the debtor and owner of the property affected and
all other parties interested therein, filed with the Super-
rior Court or District Court clerk of courts in the county
or division where the house, building or appurtenances,
wharf, pier or building thereon, on which a lien is claimed,
is situated, within 120 days after the last of the labor or
services are performed or labor, materials or services are
so furnished, except as provided in section 3256.

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Sec. 3. 10 MRSA §3257, as amended by PL 1971, c. 91,
§4, is further amended by adding after the 5th sentence a
new sentence to read:

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If a court finds that in the interest of justice an action
claiming a lien on property should be located in another
court of this State, the court making the finding may trans-
fer the action to the other court.

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Sec. 4. 10 MRSA §3259, 6th sentence is amended to
read:

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The lienors shall share pro rata, provided their complaints
or motions therefor are filed with the clerk of ~~courts~~ the

1 COMMITTEE AMENDMENT "A" to S.P. 746, L.D. 1749

2 court in which the order of sale is granted prior to the
3 order of sale and within the time mentioned in sections
4 3255, 3256 and 3257.

5 Sec. 5. 10 MRSA §3261, as enacted by PL 1967, c. 106,
6 is amended to read:

7 §3261. Certificate to be filed with register of deeds

8 When any complaint provided for in chapters 601 to 631
9 in which a lien is claimed on real estate is filed with the
10 Superior Court or District Court clerk, he shall forthwith,
11 upon written request of the plaintiff's attorney, file a
12 certificate, setting forth the names of the parties, the
13 date of the complaint and of the filing thereof, and a de-
14 scription of the said real estate as described in said com-
15 plaint, in the registry of deeds for the county or district
16 in which the land is situated.

17 Sec. 6. 10 MRSA §3262, as enacted by PL 1975, c. 91,
18 §5, is amended to read:

19 §3262. Enforcement by attachment

20 In addition to the remedy provided, the liens mentioned
21 in sections 3251 to 3254 may be enforced by attachment in
22 actions commenced in any court having jurisdiction in the
23 county or division where the property on which a lien is
24 claimed is situated, which attachment shall be made within
25 180 days after the last of the labor or services are per-
26 formed, or labor, materials or services are furnished, and
27 not afterwards, except as provided in section 3256.

28 Sec. 7. 10 MRSA §3263 is amended to read:

29 §3263. Petition for release

30 Any owner of a building, wharf, pier or real estate
31 upon which a lien is claimed may petition in writing a Jus-
32 tice of the Superior Court the judge or justice of the court
33 in which the lien action is filed setting forth the name of
34 the lienor, the court and county or division in which the
35 action is pending, the fact that a lien is claimed thereon
36 under sections 3251 to 3254, the particular building, wharf,
37 pier or real estate, and his interests therein, its value

1 COMMITTEE AMENDMENT "A" to S.P. 746, L.D. 1749

2 and his desire to have it released from said lien. ~~Such~~ The
 3 judge or justice shall issue a written notice which shall
 4 be served on the lienor or his attorney 10 days at least
 5 prior to the time fixed therein for a hearing. At the hear-
 6 ing, ~~such the judge or justice~~ may order such owner to give
 7 bond to the lienor in such amount and with such sureties as
 8 he may approve, conditioned to pay the amount for which such
 9 lienor may be entitled to a lien as determined by the court,
 10 with his costs in the action, within 30 days after final
 11 decree or judgment. The clerk shall give the plaintiff an
 12 attested copy of the complaint and proceedings, with a cer-
 13 tificate under seal of the court attached thereto, that such
 14 bond has been duly filed in his office. The record of such
 15 copy and certificate in the registry of deeds, in the county
 16 or district where such real estate or interest therein lies,
 17 vacates the lien.

18 Sec. 8. 10 MRSA §3264 is amended to read:

19 §3264. Consolidation of actions

20 When 2 or more proceedings are pending at the same
 21 time, in whatever court or courts, to enforce liens on the
 22 same house, building or appurtenances, wharf, pier and
 23 building thereon, upon complaint of any lienor who has com-
 24 menced such proceedings, or of the owner of the building,
 25 wharf or pier, a Justice of the Superior Court or Judge of
 26 the District Court after notice and hearing may, if justice
 27 requires it, order all such actions to be transferred to the
 28 Superior Court or District Court and require the parties in
 29 all such proceedings, in whatever court commenced, to plead
 30 substantially in the manner prescribed in section 3257, and
 31 thereafter all the proceedings shall be in accordance with
 32 said section and sections 3265, 3451, 3452, 3501 and 3601.
 33 While such complaint is pending all such actions shall stand
 34 continued.'

35 STATEMENT OF FACT

36 The purpose of this amendment is to make technical
 37 changes in the statutes which contain the court procedures
 38 for mechanic's liens. Since the original bill, now section
 39 1 on the amendment, gives the District Court jurisdiction
 40 over mechanic's liens, appropriate references to the Dis-

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1 COMMITTEE AMENDMENT "A" to S. P. 746, L.D. 1749

2 trict Court need to be placed in the procedures statutes.

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Reported by the Committee on Judiciary.

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