

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 658

S.P. 236

In Senate, January 26, 1999

**An Act to Require Notification of a Lien on Property to Be Done by
Certified Mail.**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BENNETT of Oxford.

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

Sec. 1. 10 MRSA §3251, as amended by PL 1997, c. 264, §1, is further amended to read:

§3251. Lien established

Whoever performs labor or furnishes labor or materials, including repair parts of machines used, or performs services as a surveyor, an architect or an engineer, or as a real estate licensee, or as an owner-renter, owner-lessor, or owner-supplier of equipment used in erecting, altering, moving or repairing a house, building or appurtenances, including any public building erected or owned by any city, town, county, school district or other municipal corporation, or in constructing, altering or repairing a wharf or pier, or any building thereon, including the surveying, clearing, grading, draining, excavating or landscaping of the ground adjacent to and upon which any such objects are constructed, or in selling any interest in land, improvements or structures, by virtue of a contract with or by consent of the owner, has a lien thereon and on the land on which it stands and on any interest such owner has in the same, to secure payment thereof, with costs. If the owner of the building has no legal interest in the land on which the building is erected or to which it is moved, the lien attaches to the building, and if the owner of the wharf or pier has no legal interest in the land on which the wharf or pier is erected, the lien attaches to the wharf or pier, and in either case may be enforced as provided. If the owner of such land, building, wharf or pier, so contracting, is a minor or married woman, such lien exists and such minority or coverture does not bar a recovery in any proceeding brought to enforce it. A person who files a lien on real property pursuant to this section shall meet the notice requirements specified in Title 14, section 4651-A, subsection 5.

Sec. 2. 22 MRSA §1313-B, sub-§3, as enacted by PL 1997, c. 704, §12, is amended to read:

3. Other remedies. In addition to filing a civil action to enforce this section:

A. The municipality may record a lien against the property of the owner or keeper of an animal if the person fails or refuses to comply with an order to confine or quarantine the animal;

B. The municipal officers or their designated agent, such as the animal control officer, shall serve written notice on the owner or keeper of the animal that specifies the action

2 necessary to comply with the order and the time limit for
compliance;

4 C. If the owner or keeper of the animal fails to comply
within the time stated, the animal control officer must
6 apply to District Court or Superior Court for an order to
seize the animal and make arrangements for quarantine or
8 euthanasia at the owner's or keeper's expense; and

10 D. If the owner or keeper of the animal fails to pay the
costs of confinement or quarantine within 30 days after
12 written demand from the municipal officers, the municipal
assessors may file a record of lien against the property of
14 the owner or keeper of the animal.

16 A municipality that files a lien on real property pursuant to
this subsection shall meet the notice requirements specified in
18 Title 14, section 4651-A, subsection 5.

20 **Sec. 3. 36 MRSA §175-A, sub-§1**, as amended by PL 1997, c. 526,
§10, is further amended to read:

22 **1. Filing.** If any tax imposed by this Title or imposed by
24 any other provision of law and authorized to be collected by the
bureau is not paid when due and no further administrative or
26 judicial review of the assessment is available pursuant to law,
the assessor may file in the registry of deeds of any county or
28 in the office in which a financing statement with respect to
tangible personal property is properly filed with Title 11,
30 section 9-401, subsection (1), paragraph (b) a notice of lien
specifying the amount of the tax, interest, penalty and costs
32 due, the name and last known address of the person liable for the
amount and, in the case of a tax imposed by this Title, the fact
34 that the assessor has complied with all the provisions of this
Title in the assessment of the tax. The lien arises at the time
36 the assessment becomes final and constitutes a lien upon all
property, whether real or personal, then owned or thereafter
38 acquired by that person in the period before the expiration of
the lien. The lien imposed by this section is not valid against
40 any mortgagee, pledgee, purchaser, judgment creditor or holder of
a properly recorded security interest until notice of the lien
42 has been filed by the assessor, with respect to real property, in
the registry of deeds of the county where such property is
44 located and, with respect to personal property, in the office in
which a financing statement for such personal property is
46 normally filed. Notwithstanding this subsection, a tax lien upon
personal property does not extend to those types of personal
48 property not subject to perfection of a security interest by
means of the filing under Title 11, sections 9-104, subsection
50 (7); 9-104, subsection (12); 9-302, subsection (3); and 9-304.

2 The lien is prior to any mortgage or security interest recorded,
4 filed or otherwise perfected after the notice, other than a
6 purchase money security interest perfected in accordance with
8 Title 11, section 9-301, subsection (2) and Title 11, section
10 9-312, subsection (4). In the case of any mortgage or security
12 interest properly recorded or filed prior to the notice of lien
14 that secures future advances by the mortgagee or secured party,
16 the lien is junior to all advances made within 45 days after
18 filing of the notice of lien, or made without knowledge of the
20 lien or pursuant to a commitment entered into without knowledge
22 of the lien. Subject to the limitations in this section, the
24 lien provided in this section has the same force, effect and
priority as a judgment lien and continues for 10 years from the
date of recording unless sooner released or otherwise
discharged. The lien may, within the 10-year period, or within
10 years from the date of the last extension of the lien in the
manner provided in this subsection, be extended by filing for
record in the appropriate office a copy of the notice and, from
the time of filing, that lien must be extended for 10 years
unless sooner released or otherwise discharged. A person or
governmental entity who files a lien on real property pursuant to
this subsection shall meet the notice requirements specified in
Title 14, section 4651-A, subsection 5.

26 SUMMARY

28 Current law requires most filers of liens on real property
30 to notify the property owner by certified mail that a lien has
32 been filed against the owner's property. There are 3 instances
34 in Maine law that allow the filing of a lien without notifying
36 the property owner: when a person has not been paid for providing
38 materials, labor or services on land or a building of another;
when an animal owner is in violation of the rabies statutes; and
when a taxpayer has not paid state taxes. This bill requires a
person, municipality or the State in these 3 instances,
respectively, to notify the property owner by certified mail that
a lien has been filed against the owner's property.