

MAINE STATE LEGISLATURE

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R. of S.

L.D. 260

DATE: 5/26/5

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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 199, L.D. 260, Bill, "An Act To Amend the Laws Governing Mechanics Liens"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 10 MRSA §3255, sub-§2, as amended by PL 1993, c. 137, §2, is repealed and the following enacted in its place:

2. Bona fide purchaser. Any person who is a bona fide purchaser for value of a house, building or appurtenances, a public building erected or owned by any city, town, county, school district or other municipal corporation, or a wharf or pier or any building thereon, including the ground adjacent to and upon which any such objects are constructed, takes title free of the lien described in this chapter unless, before the bona fide purchaser takes title to the premises on which such lien attaches:

A. The person performing or furnishing that labor, materials or services either has filed the notice required by section 3253 or has filed a notice in the office of the register of deeds in the county or registry district in which these premises are located setting forth a description of the property sufficiently accurate to identify it; the names of the owners; that the claimant is going to perform or furnish, is performing or furnishing or has performed or furnished labor, materials or services; and that the claimant may claim a lien therefor; and

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2 B. If an action to enforce the lien has been commenced in
4 accordance with this section, notice has been provided in
 accordance with section 3261.

6 If the claimant is a real estate licensee, the claimant shall
8 also send notice by certified mail, return receipt requested, or
 provide actual written notice as described in this subsection to
10 the bona fide purchaser before the purchaser takes title to the
 premises on which the claimant's lien attaches. If notice is not
12 provided, the purchaser takes title free of this lien. If notice
 provided by this subsection is filed, the lien claimant must also
14 comply with the notice requirements of section 3253 and institute
 the legal action required by subsection 1 to the extent that this
16 compliance is required in order to preserve the claimant's lien
 claim. The notice provided by this subsection is only effective
18 relative to a bona fide purchaser for value for the period of 120
 days from the date of recording thereof provided that this notice
20 may again be recorded any number of times, but further notices
 are also only effective relative to a bona fide purchaser for
22 value for the period of 120 days each from the date of their
 respective recordings.

24 **Sec. 2. 10 MRSA §3261**, as amended by PL 1981, c. 585, §5, is
26 repealed and the following enacted in its place:

28 **§3261. Certificate to be filed with register of deeds**

30 **1. Certificate of court clerk.** When a complaint provided
 for in chapters 601 to 631 in which a lien is claimed on real
32 estate is filed with the Superior Court or District Court clerk,
 the clerk shall forthwith, upon written request of the
34 plaintiff's attorney, file a certificate setting forth the names
 of the parties, the date of the complaint and of the filing of
36 the complaint and a description of the real estate as described
 in the complaint in the registry of deeds for the county or
38 district in which the land is situated.

40 **2. Notice of lien complaint.** When a complaint has been
 filed with the Superior Court or District Court pursuant to this
42 chapter, the claimant shall, within 60 days of the date on which
 the complaint was filed, cause to be recorded in the registry of
44 deeds for the county or district in which the land is situated
 either:

46 A. A certificate of the court clerk in accordance with
 subsection 1;

48 B. An affidavit of the claimant or claimant's attorney
50 setting forth the name of the court in which the complaint

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2 was filed, the names of the parties, the date of the
3 complaint and of the filing of the complaint, a description
4 of the real estate as described in the complaint and the
5 name, address and telephone number of the claimant or the
6 claimant's attorney; or

7 C. An attested copy of the complaint.

8
9 3. Failure to file notice of lien complaint. The failure
10 to file notice of a lien complaint in accordance with subsection
11 2 does not invalidate a lien, but if notice of the filing of a
12 lien complaint is not recorded in the registry of deeds in
13 accordance with this section before a bona fide purchaser takes
14 title to the premises, the bona fide purchaser for value takes
15 title free of the lien.'

16

17 **SUMMARY**

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19 This amendment replaces the bill.

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21 This amendment to the mechanics lien laws requires lien
22 claimants to file a notice in the registry of deeds within 60
23 days of filing a complaint in court to perfect the lien. This
24 notice will inform potential purchasers of the property that the
25 lien claim has been perfected and that the property is subject to
26 the lien. Failure to file the notice before a bona fide
27 purchaser takes title to property will defeat the lien claim.
28