

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 178, L.D. 570, Bill, "An Act To Require the Fair Application of the Mechanic's Lien Law"

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'Sec. 1. 10 MRSA §3253, as amended by PL 1975, c. 91, §1, is repealed and the following enacted in its place:

§3253. Dissolution unless claim filed

1. Filing of claim. The lien under in section 3252 is dissolved unless the claimant, within 90 days after ceasing to labor, furnish materials or perform services:

A. Files in the office of the register of deeds in the county or registry district in which the building, wharf or pier is situated a true statement of the amount due 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. The statement must be subscribed and sworn to by the person claiming the lien, or by someone in the claimant's behalf, and recorded in a book kept for that purpose by the register of deeds for the county or registry district, who is entitled to the same fees as for recording mortgages; and

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2 B. Provides a copy of the statement under paragraph A to
3 the owner or owners by ordinary mail. For purposes of this
4 paragraph, a post office certificate of mailing the notice
5 to the owner is conclusive proof of receipt by the owner.

6 2. Exemption for contract with owner. This section does
7 not apply when the labor, materials or services are furnished by
8 a contract with the owner of the property affected.

10 **Sec. 2. 10 MRSA §3255, sub-§1, as amended by PL 1981, c. 585,**
11 **§2, is further amended to read:**

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13 **1. Enforcement by action.** The liens mentioned in sections
14 3251 to 3254 may be preserved and enforced by action against the
15 debtor and owner of the property affected and all other parties
16 interested therein, filed with the Superior Court or District
17 Court clerk in the county or division where the house, building
18 or appurtenances, wharf, pier or building thereon, on which a
19 lien is claimed, is situated, within 120 days after the last of
20 the labor or services are performed or labor, materials or
21 services are so furnished, except as provided in section 3256.
22 If the labor, materials or services were not performed or
23 furnished by a contract with the owner of the property affected,
24 the claimant may not serve the complaint and summons, as provided
25 in the Maine Rules of Civil Procedure, on the owner until 30 days
26 after the date of filing of the complaint and any deadline for
27 filing a return of service on the owner provided in the Maine
28 Rules of Civil Procedure is tolled for 30 days.'

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SUMMARY

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This amendment replaces the bill.

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This amendment rewrites the provisions concerning the requirements for avoiding the dissolution of a mechanic's lien to include providing notice to the owner or owners of the lien filing if the lien claimant does not have a contract with the owner or owners.

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This amendment establishes a period during which the lien claimant and the contractor have the opportunity to work out the claim for payment underlying the lien before the lien claimant must provide notice of the filing of the complaint in court. This amendment requires the lien claimant to wait 30 days after filing the complaint against the contractor, the owner and other responsible parties to notify the owner of the property. This amendment tolls the deadline for filing the return of service for serving the complaint on the owner, as provided in the Maine

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Rules of Civil Procedure, for 30 days, which is consistent with
not serving the owner of the suit for 30 days.

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COMMITTEE AMENDMENT