

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 570

S.P. 178

In Senate, February 3, 2005

An Act To Require the Fair Application of the Mechanic's Lien Law

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator COWGER of Kennebec.
Cosponsored by Representative SMITH of Monmouth and
Senators: BROMLEY of Cumberland, CLUKEY of Aroostook, DOW of Lincoln, NUTTING
of Androscoggin, Representatives: FARRINGTON of Gorham, MOODY of Manchester,
RECTOR of Thomaston, SCHATZ of Blue Hill.

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

2
4 **Sec. 1. 10 MRSA §3255, sub-§3**, as enacted by PL 1975, c. 734,
is amended to read:

6 **3. Notice to owner.** If the labor, materials or services
7 were not performed or furnished by a contract with the owner of
8 the property affected, the lien described in this chapter may
9 only be enforced against the property affected to the extent of
10 the balance due to the person with whom the owner has directly
11 contracted to perform or furnish the labor, materials and
12 services on which that lien claim is based. The defense
13 established by this subsection ~~shall~~ is only be available with
14 respect to sums paid by the owner to the person with whom the
15 owner has directly contracted ~~where~~ when payment was made prior
16 to commencement of an action to enforce such lien by the person
17 performing or furnishing labor, materials or services without a
18 contract with the owner or a written notice from the person
19 performing or furnishing labor, materials or services without a
20 contract with the owner ~~which~~ that sets forth a description of
21 the property sufficiently accurate to identify it; the names of
22 the owners; that the person giving notice is going to perform or
23 furnish, is performing or furnishing or has performed or
24 furnished labor, materials or services; that the person giving
25 notice may claim a lien ~~therefor~~ on the affected property for the
26 labor, materials or services and ~~which shall~~ that must contain
the following warning at the top of the notice:

28 Under Maine law, your failure to ~~assure~~ ensure that
29 (name of claimant giving notice) is paid before
30 further payment by you to (name of contractor) may
31 result in your paying twice.

32
34 In no case ~~shall~~ may the total amount due from the owner to those
35 performing or furnishing labor, materials or services without a
36 contract with the owner exceed the balance due from the owner to
37 the person with whom ~~he~~ the owner has directly contracted at the
38 time of service of process on the owner in a lien action or
39 receipt of the written notice described above, whichever occurs
40 first.

42 If the owner does not reside in the place where the property is
43 located, but has a known agent therein, notice may be given to
44 the agent or to the owner at the place where ~~he~~ the owner
45 resides. If the notice provided by this subsection is given, the
46 lien claimant must also comply with the notice requirements of
47 section 3253 and commence the legal action required by subsection
48 1 to the extent that this compliance is required in order to
49 preserve ~~his~~ the lien claim.

50

