

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

One Hundred and Seventh Legislature

AT THE

1ST SPECIAL SESSION

JANUARY 19, 1976 TO APRIL 29, 1976

AND

2ND SPECIAL SESSION

JUNE 14, 1976

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

PORTLAND LITHOGRAPH COMPANY
PORTLAND, MAINE
1977

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature
AT THE FIRST SPECIAL SESSION
January 19, 1976 to April 29, 1976
AND THE SECOND SPECIAL SESSION
June 14, 1976

Supplementary to the Acts and Resolves of the Regular Session

[supplied from page 3097 of volume]

accounts held in the names of persons who are not husband and wife, the value of such joint ownership shall be determined by dividing the whole value of the property by the number of co-owners, regardless of the amount, if any, contributed by any individual co-owner.

Effective July 29, 1976

CHAPTER 734

AN ACT to Protect Owners and Bona Fide Purchasers of Real Property from Unrecorded Mechanics' Liens and to Protect Them from Double Payment to Contractors and Subcontractors.

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

10 MRSA § 3255, as last amended by P.L. 1975, c. 91, § 2, is repealed and the following enacted in place thereof:

§ 3255. Liens preserved and enforced by action

1. Enforcement by action. The liens mentioned in sections 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 clerk of courts in the county 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.

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, shall take 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, 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. If notice provided by this subsection is filed, the lien claimant must also comply with the notice requirements of section 3253 and institute the legal action required by subsection 1 to the extent that this compliance is required in order to preserve his lien claim. The notice provided by this subsection shall only be effective relative to a bona fide purchaser for value for the period of 120 days from the date of recording thereof; provided that this notice may again be recorded any number of times, but further notices shall also only be effective relative

to a bona fide purchaser for value for the period of 120 days each from the date of their respective recordings.

3. Notice to owner. If the labor, materials or services were not performed or furnished by a contract with the owner of the property affected, the lien described in this chapter may only be enforced against the property affected to the extent of the balance due to the person with whom the owner has directly contracted to perform or furnish the labor, materials and services on which that lien claim is based. The defense established by this subsection shall only be available with respect to sums paid by the owner to the person with whom the owner has directly contracted where payment was made prior to commencement of an action to enforce such lien by the person performing or furnishing labor, materials or services without a contract with the owner or a written notice from the person performing or furnishing labor, materials or services without a contract with the owner which sets forth a description of the property sufficiently accurate to identify it; the names of the owners; that the person giving notice is going to perform or furnish, is performing or furnishing or has performed or furnished labor, materials or services; that the person giving notice may claim a lien therefor and which shall contain the following warning at the top of the notice:

Under Maine law, your failure to assure that
(name of the

..... is paid before further payment by you to
claimant giving notice)

..... may result in your
(name of contractor)

paying twice.

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

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

This subsection shall not apply where labor, materials or services are performed or furnished to the premises for a business, commercial or industrial purpose unless the owner resides on the premises affected.