

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1602 Session of 2011

INTRODUCED BY KILLION, TURZAI, MILLER AND MUSTIO, MAY 25, 2011

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 14, 2011

AN ACT

1 Amending the act of August 24, 1963 (P.L.1175, No.497), entitled
2 "An act to codify, amend, revise and consolidate the laws
3 relating to mechanics' liens," further providing FOR RIGHT TO
4 LIEN AND AMOUNT, for formal notice by subcontractor as
5 condition precedent and for filing and notice of filing of
6 claim, FOR PRIORITY OF LIEN AND FOR DISCHARGE OF LIEN ON
7 PAYMENT INTO COURT OR ENTRY OF SECURITY.



8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Sections 501 and 502 of the act of August 24,
11 1963 (P.L.1175, No.497), known as the Mechanics' Lien Law of
12 1963, amended June 29, 2006 (P.L.210, No.52), are amended to
13 read:



14 SECTION 1. SECTION 301 OF THE ACT OF AUGUST 24, 1963
15 (P.L.1175, NO.497), KNOWN AS THE MECHANICS' LIEN LAW OF
16 1963, IS AMENDED TO READ:



17 SECTION 301. RIGHT TO LIEN; AMOUNT; SUBCONTRACTOR.-- [EVERY]
18 (A) GENERAL RULE. EXCEPT AS PROVIDED UNDER SUBSECTION (B),
19 EVERY IMPROVEMENT AND THE ESTATE OR TITLE OF THE OWNER IN THE
20 PROPERTY SHALL BE SUBJECT TO A LIEN, TO BE PERFECTED AS HEREIN

1 PROVIDED, FOR THE PAYMENT OF ALL DEBTS DUE BY THE OWNER TO THE  
2 CONTRACTOR OR BY THE CONTRACTOR TO ANY OF HIS SUBCONTRACTORS FOR  
3 LABOR OR MATERIALS FURNISHED IN THE ERECTION OR CONSTRUCTION, OR  
4 THE ALTERATION OR REPAIR OF THE IMPROVEMENT, PROVIDED THAT THE  
5 AMOUNT OF THE CLAIM, OTHER THAN AMOUNTS DETERMINED BY  
6 APPORTIONMENT UNDER SECTION 306(B) OF THIS ACT, SHALL EXCEED  
7 FIVE HUNDRED DOLLARS (\$500).

8 (B) SUBCONTRACTOR. A SUBCONTRACTOR SHALL LOSE THE RIGHT TO A  
9 LIEN WITH RESPECT TO AN IMPROVEMENT TO A RESIDENTIAL PROPERTY  
10 WHEN THE OWNER HAS PAID THE FULL CONTRACT PRICE TO THE  
11 CONTRACTOR.

12 SECTION 2. SECTIONS 501 AND 508 OF THE ACT, AMENDED JUNE 29,  
13 2006 (P.L.210, NO.52), ARE AMENDED TO READ:

14 Section 501. [Formal] Notice [by Subcontractor as Condition  
15 Precedent].--

16 (a) Notice of Commencement.

17 ~~(1) Not later than fifteen (15) days after the contractor~~ ←  
18 ~~physically commences work on the property, the owner, agent of~~  
19 ~~the owner or the contractor~~ PRIOR TO COMMENCING LABOR OR WORK OR ←  
20 FURNISHING MATERIALS FOR AN IMPROVEMENT ON REAL PROPERTY THAT  
21 MAY GIVE RISE TO A MECHANICS' LIEN UNDER THIS ACT, THE OWNER OR  
22 AGENT OF THE OWNER may file a notice of commencement with the  
23 prothonotary of the court of common pleas in the judicial  
24 district in which the project is located. The notice must  
25 include all of the following:

26 (i) Name, address and telephone number of the contractor.

27 (ii) Name and location of the project being constructed.

28 (iii) Legal description of the property upon which the  
29 improvements are being made.

30 (iv) Name and address of the true owner of the property.

1 (v) Name and address of the person other than the owner at  
2 whose instance the improvements are being made, if that person  
3 is not the true owner of the property.

4 (vi) Name and the address of a surety for the performance  
5 and payment bonds.

6 (2) The owner or contractor must conspicuously post a copy  
7 of the notice at the project site at the time that physical work  
8 commences upon the property AND THE OWNER SHALL ENSURE THAT THE ←  
9 COPY OF THE NOTICE REMAINS POSTED FOR THE DURATION OF THE  
10 PROJECT.

11 (3) The owner must deliver a copy of the notice of  
12 commencement to the contractor within seven (7) days after the  
13 notice is filed. ←

14 ~~(4) The contractor must give a copy of the notice to a~~  
15 ~~subcontractor that makes a written request. If a contractor~~  
16 ~~fails to comply with this paragraph within ten (10) days of~~  
17 ~~receipt of the written request, this section shall not apply to~~  
18 ~~the subcontractor that made the request., OR WITHIN SEVEN (7)~~ ←  
19 ~~DAYS AFTER ENTERING INTO A CONTRACT WITH A SUBSEQUENT~~  
20 ~~CONTRACTOR. IF THE NOTICE IS NOT DELIVERED TO A CONTRACTOR~~  
21 ~~WITHIN THE SEVEN-DAY PERIOD, SUBSECTION (B) SHALL NOT APPLY TO A~~  
22 ~~SUBCONTRACTOR ASSOCIATED WITH THE CONTRACTOR.~~

23 (4) THE OWNER OR CONTRACTOR WHO HAS BEEN PROVIDED WITH A  
24 NOTICE OF COMMENCEMENT SHALL PROVIDE A COPY OF A NOTICE OF  
25 COMMENCEMENT TO A SUBCONTRACTOR WITHIN TEN (10) DAYS AFTER THE  
26 SUBCONTRACTOR MAKES A WRITTEN REQUEST FOR A COPY OF THE NOTICE.  
27 THE OWNER OR CONTRACTOR WHO FAILS TO PROVIDE THE NOTICE UNDER  
28 THIS PARAGRAPH SHALL BE LIABLE FOR ALL COSTS INCURRED BY A  
29 SUBCONTRACTOR, INCLUDING ATTORNEY FEES, IN OBTAINING THE  
30 INFORMATION NECESSARY TO SERVE A NOTICE OF FURNISHING UNDER

1 SUBSECTION (B).

2 (5) A SUBCONTRACTOR, WHICH HAS RECEIVED A COPY OF A NOTICE  
3 OF COMMENCEMENT FROM AN OWNER OR CONTRACTOR, SHALL PROVIDE A  
4 COPY OF THE NOTICE WITHIN TEN (10) DAYS TO A SUBCONTRACTOR THAT  
5 MAKES A WRITTEN REQUEST. IF A SUBCONTRACTOR FAILS TO PROVIDE THE  
6 NOTICE AS REQUIRED BY THIS PARAGRAPH, HE SHALL BE LIABLE FOR ALL  
7 COSTS INCURRED BY THE REQUESTING SUBCONTRACTOR, INCLUDING  
8 ATTORNEY FEES, IN OBTAINING THE INFORMATION NECESSARY TO SERVE A  
9 NOTICE OF FURNISHING UNDER SUBSECTION (B).

10 (b) Notice of Furnishing. If a notice is filed under  
11 subsection (a) (1) and posted under subsection (a) (2), a  
12 subcontractor that is not in direct privity with the owner and ←  
13 that performs work or services or provides material or equipment  
14 in furtherance of an improvement to property must, as a  
15 condition of retaining lien rights under section 301,  
16 substantially comply with all of the following to file a notice  
17 of furnishing:

18 (1) Subject to paragraph ~~(4)(ii)~~ (5)(II), the subcontractor ←  
19 must serve the notice upon the owner within twenty (20) days  
20 after first performing work or services or first providing  
21 materials or equipment in connection with the improvement of the  
22 property OR WITHIN TWENTY (20) DAYS AFTER BEING PROVIDED WITH A ←  
23 NOTICE OF COMMENCEMENT IF THE SUBCONTRACTOR FIRST PERFORMED WORK  
24 OR SERVICES OR PROVIDED MATERIALS OR EQUIPMENT BEFORE RECEIVING  
25 A COPY OF NOTICE OF COMMENCEMENT.

26 (2) The notice must be served in one of the following  
27 manners:

28 (i) Certified mail to owner's address.

29 (ii) Personal delivery to the owner. Evidence of delivery  
30 must be an acknowledgment signed by the owner.

1 (3) The notice must contain, at a minimum, the following:

2 (i) A general description of the labor, skill, materials,  
3 fixtures, machinery or tools furnished and the estimated price. ←

4 (ii) Name and address of the person supplying items in  
5 subparagraph (i).

6 (iii) Name and address of the person that contracted for the  
7 items in subparagraph (i).

8 (iv) A description sufficient to identify the property which  
9 is being improved.

10 ~~(3)~~ (4) Notice must be substantially in the following form: ←

11 Notice of Furnishing

12 (For use in connection with improvements to property other  
13 than public improvements)

14 TO: \_\_\_\_\_

15 (Name of owner)

16 \_\_\_\_\_

17 (Address of owner)

18 Please take notice that the undersigned is performing

19 certain work or labor or furnishing certain materials

20 to \_\_\_\_\_ (Name and address of other contracting

21 party) in connection with the improvement to the real property

22 located at \_\_\_\_\_ . The labor, work or materials

23 were performed or furnished first, or will be furnished first on

24 (date).

25 WARNING TO OWNER: THIS NOTICE IS REQUIRED BY THE PENNSYLVANIA

26 MECHANICS' LIEN LAW. IF YOU HAVE ANY QUESTIONS ABOUT YOUR RIGHTS

27 OR DUTIES UNDER THESE STATUTES YOU SHOULD SEEK LEGAL ASSISTANCE

28 TO PROTECT YOU FROM THE POSSIBILITY OF PAYING TWICE FOR

29 IMPROVEMENTS TO YOUR PROPERTY.

30 \_\_\_\_\_

1 (Name and Address of Lien Claimant

2 By

3 (Name and capacity of party signing for lien claimant)

4 \_\_\_\_\_

5 (Address of Signing Party)

6 \_\_\_\_\_

7 (Date)

8 ~~(4)~~ (5) Filing of a notice under this subsection preserves ←

9 the lien rights of a subcontractor in compliance with this act

10 as follows:

11 (i) For amounts owing for work and services performed and

12 materials and equipment furnished from the date the work or

13 services were first performed or materials or equipment were

14 first furnished through the date of service of the notice of

15 furnishing and thereafter.

16 (ii) A notice delivered outside the time frame under

17 paragraph (1) preserves the right to file a lien which is only

18 enforceable for the services or materials furnished within the

19 period of twenty (20) days before the date on which notice is

20 given.

21 ~~(5)~~ (6) If a subcontractor does not substantially comply ←

22 with this subsection, the subcontractor forfeits the right to

23 file a lien claim.

24 (b.1) Time Period of Formal Notice. No claim by a

25 subcontractor, whether for erection or construction or for

26 alterations or repairs, shall be valid unless, at least thirty

27 (30) days before the same is filed, he shall have given to the

28 owner a formal written notice of his intention to file a claim,

29 except that such notice shall not be required where the claim is

30 filed pursuant to a rule to do so as provided by section 506.

1 (c) Contents of Formal Notice. The formal notice shall  
2 state:

3 (1) the name of the party claimant;

4 (2) the name of the person with whom he contracted;

5 (3) the amount claimed to be due;

6 (4) the general nature and character of the labor or  
7 materials furnished;

8 (5) the date of completion of the work for which his claim  
9 is made;

10 (6) a brief description sufficient to identify the property  
11 claimed to be subject to the lien.

12 (d) Service of Notice. The notice provided by this section  
13 may be served by first class, registered or certified mail on  
14 the owner or his agent or by an adult in the same manner as a  
15 writ of summons in assumpsit, or if service cannot be so made  
16 then by posting upon a conspicuous public part of the  
17 improvement.

18 ~~Section 502. Filing and Notice of Filing of Claim.~~ ←

19 ~~(a) Perfection of Lien. To perfect a lien, every claimant~~  
20 ~~must:~~

21 ~~(1) file a claim with the prothonotary as provided by this~~  
22 ~~act within [six (6)] four (4) months after the completion of his~~  
23 ~~work; and~~

24 ~~(2) serve written notice of such filing upon the owner~~  
25 ~~within one (1) month after filing, giving the court, term and~~  
26 ~~number and date of filing of the claim. An affidavit of service~~  
27 ~~of notice, or the acceptance of service, shall be filed within~~  
28 ~~twenty (20) days after service setting forth the date and manner~~  
29 ~~of service. Failure to serve such notice or to file the~~  
30 ~~affidavit or acceptance of service within the times specified~~

1 ~~shall be sufficient ground for striking off the claim.~~

2 ~~(b) Venue; Property in More Than One County. Where the~~  
3 ~~improvement is located in more than one county, the claim may be~~  
4 ~~filed in any one or more of said counties, but shall be~~  
5 ~~effective only as to the part of the property in the county in~~  
6 ~~which it has been filed.~~

7 ~~(c) Manner of Service. Service of the notice of filing of~~  
8 ~~claim shall be made by an adult in the same manner as a writ of~~  
9 ~~summons in assumpsit, or if service cannot be so made then by~~  
10 ~~posting upon a conspicuous public part of the improvement.~~

11 ~~Section 2. This act shall apply as follows:~~

12 ~~(1) The amendment of section 501 of the act shall apply~~  
13 ~~to contracts entered into or renewed on or after the~~  
14 ~~effective date of this paragraph.~~

15 ~~(2) The amendment of section 502(a)(1) of the act shall~~  
16 ~~apply to claims for work completed on or after the effective~~  
17 ~~date of this paragraph.~~

18 ~~Section 3. This act shall take effect January 1, 2012.~~

19 SECTION 508. PRIORITY OF LIEN.--THE LIEN OF A CLAIM FILED  
20 UNDER THIS ACT SHALL TAKE EFFECT AND HAVE PRIORITY AS FOLLOWS:

21 (A) EXCEPT AS SET FORTH IN SUBSECTION (C), IN THE CASE OF  
22 THE ERECTION OR CONSTRUCTION OF AN IMPROVEMENT, AS OF THE DATE  
23 OF THE VISIBLE COMMENCEMENT UPON THE GROUND OF THE WORK OF  
24 ERECTING OR CONSTRUCTING THE IMPROVEMENT.

25 (B) EXCEPT AS SET FORTH IN SUBSECTION (C), IN THE CASE OF  
26 THE ALTERATION OR REPAIR OF AN IMPROVEMENT, AS OF THE DATE OF  
27 THE FILING OF THE CLAIM.

28 (C) ANY LIEN OBTAINED UNDER THIS ACT BY A CONTRACTOR OR  
29 SUBCONTRACTOR SHALL BE SUBORDINATE TO THE FOLLOWING:

30 (1) A PURCHASE MONEY MORTGAGE AS DEFINED IN 42 PA.C.S. §





1 8141(1) (RELATING TO TIME FROM WHICH LIENS HAVE PRIORITY).

2 (2) AN OPEN-END MORTGAGE AS DEFINED IN 42 PA.C.S. § 8143(F)  
3 (RELATING TO OPEN-END MORTGAGES), OF THE PROCEEDS OF WHICH ARE  
4 USED TO PAY ALL OR PART OF THE COST OF COMPLETING ERECTION,  
5 CONSTRUCTION, ALTERATION OR REPAIR OF THE MORTGAGED PREMISES  
6 SECURED BY THE OPEN-END MORTGAGE.

7 (3) THE REFINANCE OR MODIFICATION OF A PURCHASE MONEY  
8 MORTGAGE AS DEFINED IN 42 PA.C.S. § 8141(1) OR OPEN-END MORTGAGE  
9 AS DEFINED IN 42 PA.C.S. § 8143(F) NOTWITHSTANDING THAT:

10 (I) THE NEW PRINCIPAL AMOUNT OF THE MORTGAGE MAY EXCEED THE  
11 STATED AMOUNT OF THE ORIGINAL MORTGAGE; AND

12 (II) ADVANCES MADE UNDER THE MORTGAGE MAY BE USED FOR  
13 PURPOSES UNRELATED TO THE COST OF COMPLETING ERECTION,  
14 CONSTRUCTION, ALTERATION OR REPAIR OF THE MORTGAGED PREMISES.

15 SECTION 3. SECTION 510 HEADING OF THE ACT IS AMENDED AND THE  
16 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

17 SECTION 510. DISCHARGE OF LIEN [ON PAYMENT INTO COURT OR  
18 ENTRY OF SECURITY].--

19 \* \* \*

20 (F) RESIDENTIAL PROPERTY. A CLAIM FILED UNDER THIS ACT WITH  
21 RESPECT TO AN IMPROVEMENT TO A RESIDENTIAL PROPERTY SHALL, UPON  
22 PETITION OR MOTION TO THE COURT BY THE OWNER OR A PARTY IN  
23 INTEREST, BE DISCHARGED AS A LIEN AGAINST THE PROPERTY WHEN:

24 (1) THE OWNER HAS PAID THE FULL CONTRACT PRICE TO THE  
25 CONTRACTOR; OR

26 (2) THE LIEN SHALL BE REDUCED TO THE AMOUNT OF THE UNPAID  
27 CONTRACT PRICE OWED BY THE OWNER TO THE CONTRACTOR.

28 SECTION 4. THIS ACT SHALL APPLY AS FOLLOWS:

29 (1) THE AMENDMENT OF SECTIONS 301, 508 AND 510 OF THE  
30 ACT SHALL APPLY TO CONTRACTS ENTERED INTO ON OR AFTER THE

1 EFFECTIVE DATE OF THIS SECTION.

2 (2) THE AMENDMENT OF SECTION 501 OF THE ACT SHALL APPLY  
3 TO CONTRACTS ENTERED INTO OR RENEWED ON OR AFTER THE  
4 EFFECTIVE DATE OF THIS PARAGRAPH.

5 SECTION 5. THIS ACT SHALL TAKE EFFECT JANUARY 1, 2012.