

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 145 Session of 2013

INTRODUCED BY WARD, WAUGH, MENSCH, ERICKSON, ALLOWAY, BAKER, FONTANA, EICHELBERGER, BOSCOLA, VULAKOVICH, FARNESE, FERLO, SOLOBAY, BRUBAKER, FOLMER, BROWNE, McILHINNEY AND BLAKE, JANUARY 15, 2013

SENATOR GORDNER, LABOR AND INDUSTRY, AS AMENDED, APRIL 16, 2013

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," providing for the definition
4 of "costs of construction"; and further providing for right
5 to lien and amount, for priority of lien and for discharge or
6 reduction of lien on payment into court or entry of security.

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

9 Section 1. Section 201 of the act of August 24, 1963
10 (P.L.1175, No.497), known as the Mechanics' Lien Law of 1963, is
11 amended by adding a definition to read:

12 Section 201. Definitions.--The following words, terms and
13 phrases when used in this act shall have the meaning ascribed to
14 them in this section, except where the context clearly indicates
15 a different meaning:

16 \* \* \*

17 (15) "Costs of construction" means all costs, expenses and
18 reimbursements pertaining to erection, construction, alteration,
19 repair, mandated off-site improvements, government impact fees

1 and ~~soft~~ OTHER costs, including, but not limited to, costs, <--  
2 expenses and reimbursements in the nature of taxes, insurance,  
3 bonding, inspections, surveys, testing, permits, legal fees,  
4 architect fees, engineering fees, consulting fees, accounting  
5 fees, management fees, utility fees, tenant improvements,  
6 leasing commissions, payment of prior ~~loans~~ or FILED MECHANICS' <--  
7 LIENS OR mortgages, mortgage origination fees and commissions,  
8 finance costs, closing fees, recording fees, title insurance or  
9 escrow fees, or any similar or comparable costs, expenses or  
10 reimbursements related to an improvement, made or intended to be  
11 made, to the property. For purposes of this definition,  
12 reimbursement includes any such disbursements made to the  
13 borrower, any person acting for the benefit or on behalf of the  
14 borrower, or to an affiliate of the borrower.

15 Section 2. Section 301 of the act is amended to read:

16 Section 301. Right to Lien; Amount; Subcontractor.--[Every]

17 (a) General Rule. Except as provided under subsection (b),

18 every improvement and the estate or title of the owner in the  
19 property shall be subject to a lien, to be perfected as herein  
20 provided, for the payment of all debts due by the owner to the  
21 contractor or by the contractor to any of his subcontractors for  
22 labor or materials furnished in the erection or construction, or  
23 the alteration or repair of the improvement, provided that the  
24 amount of the claim, other than amounts determined by  
25 apportionment under section 306(b) of this act, shall exceed  
26 five hundred dollars (\$500).

27 (b) Subcontractor. A subcontractor does not have the right  
28 to a lien with respect to an improvement to a residential  
29 property if:

30 (1) the owner or tenant paid the full contract price to the

1 contractor; and

2 (2) the property is ~~or is intended~~ to be used as the <--  
3 residence of the owner or tenant.

4 Section 3. Section 508(c) of the act, amended June 29, 2006  
5 (P.L.210, No.52), is amended to read:

6 Section 508. Priority of Lien.--The lien of a claim filed  
7 under this act shall take effect and have priority as follows:

8 \* \* \*

9 (c) Any lien obtained under this act by a contractor or  
10 subcontractor shall be subordinate to the following:

11 (1) A purchase money mortgage as defined in 42 Pa.C.S. §  
12 8141(1) (relating to time from which liens have priority).

13 (2) An open-end mortgage as defined in 42 Pa.C.S. § 8143(f)  
14 (relating to open-end mortgages), [the proceeds of which are  
15 used to pay all or part of the cost of completing erection,  
16 construction, alteration or repair of the mortgaged premises  
17 secured by the open-end mortgage.] where at least ~~twenty five~~ <--  
18 ~~percent (25%) SIXTY PERCENT (60%) of the proceeds are intended~~ <--  
19 to pay or are used to pay all or part of the costs of  
20 construction.

21 (3) The ~~refinance or~~ modification of a purchase money <--  
22 mortgage as set forth in paragraph (1) or open-end mortgage as  
23 set forth in paragraph (2), notwithstanding that:

24 (i) the new principal amount of the mortgage may exceed the  
25 stated amount of the original mortgage; ~~or~~ <--

26 (ii) advances made under the mortgage may be used for  
27 purposes unrelated to the costs of construction; OR <--

28 (III) ALL LIENS, INCLUDING MECHANICS' LIENS, SHALL BE PAID  
29 AT THE TIME OF THE MODIFICATION.

30 Section 4. Section 510 heading of the act is amended and the

1 section is amended by adding a subsection to read:

2 Section 510. Discharge of Lien [on Payment into Court or  
3 Entry of Security] or Reduction of Lien.--

4 \* \* \*

5 (f) Residential Property.

6 (1) A claim filed under this act with respect to an  
7 improvement to a residential property subject to section 301(b)  
8 shall, upon petition or motion to the court by the owner or a  
9 party in interest, be discharged as a lien against the property  
10 when the owner or tenant has paid the full contract price to the  
11 contractor.

12 (2) Where the owner or tenant has paid a sum to the  
13 contractor which is less than the sum of the full contract  
14 price, a claim filed under this act with respect to an  
15 improvement to a residential property subject to section 301(b),  
16 shall upon petition or motion to the court by the owner or a  
17 party in interest cause the lien to be reduced to the amount of  
18 the unpaid contract price owed by the owner or tenant to the  
19 contractor.

20 Section 5. The addition of the definition of "costs of  
21 construction" in section 201 of the act and the amendment of  
22 section 508(c) of the act shall apply to liens perfected on or  
23 after the effective date of this section, including liens  
24 relating to the construction of an improvement for which the  
25 visible commencement of work occurred prior to the effective  
26 date of this section, but were not perfected until on or after  
27 the effective date of this section.

28 Section 6. This act shall take effect ~~immediately~~ IN 60  
29 DAYS.

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