

## 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

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 26, 2014

## 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,

1 repair, mandated off-site improvements, government impact fees  
2 and other construction-related costs, including, but not limited  
3 to, costs, expenses and reimbursements in the nature of taxes,  
4 insurance, bonding, inspections, surveys, testing, permits,  
5 legal fees, architect fees, engineering fees, consulting fees,  
6 accounting fees, management fees, utility fees, tenant  
7 improvements, leasing commissions, payment of prior filed or  
8 recorded liens or mortgages, including mechanics liens,  
9 municipal claims, mortgage origination fees and commissions,  
10 finance costs, closing fees, recording fees, title insurance or  
11 escrow fees, or any similar or comparable costs, expenses or  
12 reimbursements related to an improvement, made or intended to be  
13 made, to the property. For purposes of this definition,  
14 reimbursement includes any such disbursements made to the  
15 borrower, any person acting for the benefit or on behalf of the  
16 borrower, or to an affiliate of the borrower.

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

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

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

29 (b) Subcontractor. A subcontractor does not have the right  
30 to a lien with respect to an improvement to a residential

1 property if:

2 (1) the owner or tenant paid the full contract price to the  
3 contractor; and <--

4 ~~(2) the property is to be used as the residence of the owner~~  
5 ~~or tenant.~~

6 (2) THE PROPERTY IS OR IS INTENDED TO BE USED AS THE <--  
7 RESIDENCE OF THE OWNER OR SUBSEQUENT TO OCCUPATION BY THE OWNER,  
8 A TENANT OF THE OWNER; AND

9 (3) THE RESIDENTIAL PROPERTY IS A SINGLE TOWNHOUSE OR A  
10 BUILDING THAT CONSISTS OF ONE OR TWO DWELLING UNITS USED,  
11 INTENDED OR DESIGNED TO BE BUILT, USED, RENTED OR LEASED FOR  
12 LIVING PURPOSES. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM  
13 "TOWNHOUSE" SHALL MEAN A SINGLE-FAMILY DWELLING UNIT CONSTRUCTED  
14 IN A GROUP OF THREE OR MORE ATTACHED UNITS IN WHICH EACH UNIT  
15 EXTENDS FROM FOUNDATION TO ROOF WITH A YARD OR PUBLIC WAY ON AT  
16 LEAST TWO SIDES.

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

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 \* \* \*

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

24 (1) A purchase money mortgage as defined in 42 Pa.C.S. §  
25 8141(1) (relating to time from which liens have priority).

26 (2) An open-end mortgage as defined in 42 Pa.C.S. § 8143(f)  
27 (relating to open-end mortgages), [the proceeds of which are  
28 used to pay all or part of the cost of completing erection,  
29 construction, alteration or repair of the mortgaged premises  
30 secured by the open-end mortgage.] where at least sixty percent

1 (60%) of the proceeds are intended to pay or are used to pay all  
2 or part of the costs of construction.

3 Section 4. Section 510 heading of the act is amended and the  
4 section is amended by adding a subsection to read:

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

7 \* \* \*

8 (f) Residential Property.

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

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

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

1 Section 6. This act shall take effect in 60 days.