

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 982 Session of 2013

INTRODUCED BY DELOZIER, AUMENT, BAKER, CARROLL, P. DALEY,
 EVANKOVICH, GIBBONS, GINGRICH, GRELL, HARHAI, HESS,
 HICKERNELL, KAUFFMAN, M. K. KELLER, KORTZ, KOTIK, LONGIETTI,
 MACKENZIE, MASSER, METCALFE, MILLARD, MILLER, MILNE, MURT,
 MUSTIO, O'NEILL, PYLE, QUINN, ROCK, SABATINA, SAINATO,
 STEVENSON, SWANGER, TRUITT AND WATSON, MARCH 13, 2013

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

16 Section 2. Section 301 of the act 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
21 provided, for the payment of all debts due by the owner to the
22 contractor or by the contractor to any of his subcontractors for
23 labor or materials furnished in the erection or construction, or
24 the alteration or repair of the improvement, provided that the
25 amount of the claim, other than amounts determined by
26 apportionment under section 306(b) of this act, shall exceed
27 five hundred dollars (\$500).

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

1 (1) the owner or tenant paid the full contract price to the
2 contractor;

3 (2) the property is or is intended to be used as the
4 residence of the owner or subsequent to occupation by the owner,
5 a tenant of the owner; and

6 (3) the residential property is a single townhouse or a
7 building that consists of one or two dwelling units used,
8 intended or designed to be built, used, rented or leased for
9 living purposes. For the purposes of this paragraph, the term
10 "townhouse" shall mean a single-family dwelling unit constructed
11 in a group of three or more attached units in which each unit
12 extends from foundation to roof with a yard or public way on at
13 least two sides.

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

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

18 * * *

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

21 (1) A purchase money mortgage as defined in 42 Pa.C.S. §
22 8141(1) (relating to time from which liens have priority).

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

30 (3) The refinance or modification of a purchase money

1 mortgage as set forth in paragraph (1) or open-end mortgage as
2 set forth in paragraph (2), notwithstanding that:

3 (i) the new principal amount of the mortgage may exceed the
4 stated amount of the original mortgage; or

5 (ii) advances made under the mortgage may be used for
6 purposes unrelated to the costs of construction.

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

9 Section 510. Discharge of Lien [on Payment into Court or
10 Entry of Security].--

11 * * *

12 (f) Residential property. A claim filed under this act with
13 respect to an improvement to a residential property subject to
14 section 301(b) shall, upon petition or motion to the court by
15 the owner or a party in interest, be discharged as a lien
16 against the property when:

17 (1) the owner or tenant has paid the full contract price to
18 the contractor; or

19 (2) the lien shall be reduced to the amount of the unpaid
20 contract price owed by the owner or tenant to the contractor.

21 Section 5. The amendment of sections 301 and 510 of the act
22 shall apply to contracts entered into on or after the effective
23 date of this section.

24 Section 6. This act shall take effect in 30 days.