

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Vallee

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Amending The Mechanic's Lien Law.

PETITION OF:

NAME:

James E. Vallee

DISTRICT/ADDRESS:

10th Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT AMENDING THE MECHANIC'S LIEN LAW.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 254 of the General Laws, as appearing in the 2006 Official Edition, is
2 hereby amended by striking out section 1 and replacing with :-

3 As used in this chapter the following words shall, unless the context clearly requires otherwise,
4 have the following meaning:—

5 Definitions

6 (a) The term “design professional” refers to licensed architects, registered professional
7 engineers, registered land surveyors, and licensed site professionals.

8 (b) The term “professional services” refers to those services performed by licensed
9 architects, registered professional engineers, registered land surveyors and licensed site
10 professionals and includes design, planning, construction administration and surveying
11 services.

12 A person to whom a debt is due for personal labor or professional services performed
13 in the design, planning, construction administration, surveying, erection, alteration, repair or
14 removal of a building or structure upon land or improvement or alteration to real property, by
15 virtue of an agreement with, or by consent of, the owner of such building or structure, or of a
16 person having authority from or rightfully acting for such owner in procuring or furnishing such
17 professional services or labor, shall, under the provisions of this chapter, other than section four,

18 have a lien upon such building or structure and upon such interest in such real property, land,
19 building, structure, or improvement owned by the party authorizing or consenting to said work or
20 professional services, for not more than thirty days' work or services actually performed for the
21 ninety days next prior to his filing a statement as provided in section eight.

22 A person or his assignee, agent, authorized representative or third party beneficiary, to whom
23 amounts are due or for whose benefit amounts are computed and due for, or on the basis of, the
24 personal labor or professional services of such person, may file a lien to secure the payment of
25 such unpaid amounts including interest and agreed penalties for failure to pay the same.

26 SECTION 2. Section 2 of said chapter 254, is hereby amended by striking out section 2 and replacing with :-

27 Section 2. A person entering into a written contract with the owner of any interest in real
28 property, or with any person acting for, on behalf of, or with the consent of such owner for the
29 whole or part of the design, planning, construction administration, surveying, erection, alteration,
30 repair or removal of a building, structure, or other improvement to real property, or for
31 furnishing material or rental equipment, appliances, or tools therefor, shall have a lien upon such
32 real property, land, building, structure or improvement owned by the party with whom or on
33 behalf of whom the contract was entered into, as appears of record on the date when notice of
34 said contract is filed or recorded in the registry of deeds for the county or district where such
35 land lies, to secure the payment of all labor, including construction management and general
36 contractor services, professional services and material or rental equipment, appliances, or tools
37 which shall be furnished by virtue of said contract. Said notice may be filed or recorded in the
38 registry of deeds in the county or registry district where the land lies by any person entitled
39 under this section to enforce a lien, and shall be in substantially the following form:

40 Notice is hereby given that by virtue of a written contract dated ____, between ____, owner, and
41 ____, contractor, or ____, design professional, said contractor or design professional is to furnish
42 or has furnished labor and material or professional services or rental equipment, appliances or
43 tools for the design, planning, construction administration, surveying, erection, alteration, repair
44 or removal of a building, structure, or other improvement on a lot of land or other interest in real
45 property described as follows:

46 (INSERT DESCRIPTION)

47 Such person may file or record the notice of contract at any time after execution of the written
48 contract whether or not the date for performance stated in such written contract has passed and
49 whether or not the work or services under such written contract has been performed, but not later
50 than the earliest of: (i) sixty days after filing or recording of the notice of substantial completion
51 under section two A; or (ii) ninety days after filing or recording of the notice of termination
52 under section two B; or (iii) ninety days after such person or any person by, through or under
53 him last performed services or performed labor or furnished labor or materials or both labor and

54 SECTION 3. Section 2B of said chapter 254, as so appearing, is hereby amended by inserting after the word
55 “contractor”, in line 9, the following words:- or as design professional for the design, planning, construction,
56 administration or surveying services.

57 SECTION 4. Said Section 2B of said chapter 254, as so appearing, is hereby amended by inserting after the word
58 “contractor” in line 16, the following words:- or design professional.

59 SECTION 5. Section 4 of said chapter 254, as so appearing , is hereby amended by inserting the following:-

60 Section 4A. Design professionals who provide professional services under a written contract
61 with an Owner may file or record in the registry of deeds for the county or district where such
62 land lies a notice of his contract substantially in the following form:

63 Notice is hereby given that by virtue of a written contract dated

64 ____, between ____ design professional and ____ said ____ has provided design, planning,

65 construction administration or surveying services relating to a building, structure or other

66 improvement of real property by ____, design professional for ____, owner, on a lot of land or

67 other interest in real property described as follows:

68 (Insert description)

69 As of the date of this notice, an account of said contract is as follows:

70 1. contract price _____

71 2. payments received _____

72 3. amount owed _____

73 The regular mailing address of the party recording or filing this notice is as follows: ____

74 Such person may file or record the notice of contract at any time after execution of the written

75 contract whether or not the date for performance stated in such written contract has passed and
76 whether or not the services under such contract have been provided, but not later than the earliest
77 of: (i) sixty days after filing or recording the notice of substantial completion under section two
78 A; or (ii) ninety days after filing or recording of the notice of termination under section two B; or
79 (iii) ninety days after the last day a person entitled to enforce a lien under section two or anyone
80 claiming by through or under him performed or furnished labor or materials or both labor and
81 materials to the project or furnished rental equipment, appliances or tools.

82 Such notice may also be filed by a person or his assignee, agent, authorized representative or
83 third party beneficiary to whom amounts are due or for whose benefit amounts are computed and
84 due for or on the basis of the services of that person providing services under a written contract
85 and the person filing such notice shall not be required to itemize the amount of the contract, the
86 amount of outstanding claims or the amount paid in such notice.

87 Upon filing or recording a notice, as hereinbefore provided, the design professional shall have a
88 lien upon such real property, land, building, structure or improvement owned by the party who
89 entered into the original contract as appears of record at the time of such filing, to secure the
90 payment of all professional services provided for the building or structure or other improvement,
91 regardless of the amount stated in the notice of contract.

92 If the person claiming a lien under this section has no direct contractual relationship with the
93 owner, but is a licensed architect or registered professional engineer acting as a sub-consultant,
94 the sub-consultant shall, after filing or recording a notice, and giving actual notice to the owner
95 of such filing, have a lien upon such real property, land, building, structure or improvement
96 owned by the party who entered into the original contract with the licensed architect or
97 registered professional engineer.

98 SECTION 6. Section 5 of said chapter 254, as so appearing, is hereby amended by inserting in line 1 the following
99 words:- design, planning, construction administration, or surveying services.

100 SECTION 7. Section 7 of said chapter 254, as so appearing, is hereby amended by striking in lines 2 and 3 the
101 following words:- 'is in the' and replacing with the following words:- or professional services provided is in design,
102 planning, construction administration or surveying services.

103 SECTION 8. Section 8 of said chapter 254, as so appearing, is hereby amended by inserting in line 2 after the word
104 "subcontractor" the following words:-design professional.

