

No. 2014-117

AN ACT

SB 145

Amending the act of August 24, 1963 (P.L.1175, No.497), entitled "An act to codify, amend, revise and consolidate the laws relating to mechanics' liens," providing for the definition of "costs of construction"; and further providing for right to lien and amount, for priority of lien and for discharge or reduction of lien on payment into court or entry of security.

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

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

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

* * *

(15) "Costs of construction" means all costs, expenses and reimbursements pertaining to erection, construction, alteration, repair, mandated off-site improvements, government impact fees and other construction-related costs, including, but not limited to, costs, expenses and reimbursements in the nature of taxes, insurance, bonding, inspections, surveys, testing, permits, legal fees, architect fees, engineering fees, consulting fees, accounting fees, management fees, utility fees, tenant improvements, leasing commissions, payment of prior filed or recorded liens or mortgages, including mechanics liens, municipal claims, mortgage origination fees and commissions, finance costs, closing fees, recording fees, title insurance or escrow fees, or any similar or comparable costs, expenses or reimbursements related to an improvement made or intended to be made to the property. For purposes of this definition, reimbursement includes any such disbursements made to the borrower, any person acting for the benefit or on behalf of the borrower or to an affiliate of the borrower.

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

Section 301. Right to Lien; Amount; *Subcontractor*.—[Every] (a) **General Rule.** *Except as provided under subsection (b), every improvement and the estate or title of the owner in the property shall be subject to a lien, to be perfected as herein provided, for the payment of all debts due by the owner to the contractor or by the contractor to any of his subcontractors for labor or materials furnished in the erection or construction, or the alteration or repair of the improvement, provided that the amount of the claim, other than amounts determined by apportionment under section 306(b) of this act, shall exceed five hundred dollars (\$500).*

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

- (1) the owner or tenant paid the full contract price to the contractor;*
(2) the property is or is intended to be used as the residence of the owner or subsequent to occupation by the owner, a tenant of the owner; and
(3) the residential property is a single townhouse or a building that consists of one or two dwelling units used, intended or designed to be built, used, rented or leased for living purposes. For the purposes of this paragraph, the term "townhouse" shall mean a single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof with a yard or public way on at least two sides.

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

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

* * *

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

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

(2) An open-end mortgage as defined in 42 Pa.C.S. § 8143(f) (relating to open-end mortgages), **[the proceeds of which are used to pay all or part of the cost of completing erection, construction, alteration or repair of the mortgaged premises secured by the open-end mortgage.] where at least sixty percent (60%) of the proceeds are intended to pay or are used to pay all or part of the costs of construction.**

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

Section 510. Discharge of Lien **[on Payment into Court or Entry of Security] or Reduction of Lien.—**

* * *

(f) Residential Property.

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

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

Section 5. The addition of the definition of "costs of construction" in section 201 of the act and the amendment of section 508(c) of the act shall apply to liens perfected on or after the effective date of this section, including liens relating to the construction of an improvement for which the visible commencement of work occurred prior to the effective date of this

section, but were not perfected until on or after the effective date of this section.

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

APPROVED—The 9th day of July, A.D. 2014

TOM CORBETT