



General Assembly

January Session, 2009

Substitute Bill No. 1126

* SB01126JUD 033009 *

AN ACT CONCERNING LAND RECORDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-174 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 Any person, as owner in whole or in part of, or fiduciary having
4 control of, or interest in, any real estate, may file with the tax collector,
5 at any time within ninety days from the date when the first installment
6 of a tax, or the whole tax in case installments are not authorized, has
7 become due, and within thirty days from the date when the second or
8 any succeeding installment of a tax, all previous installments of which
9 have been paid, has become due, an affidavit showing in detail the
10 existence of unusual financial or other circumstances which justify
11 deferring collection of the tax laid upon such real estate. On receipt of
12 such affidavit, which shall request that the collection of such tax be
13 deferred, the tax collector shall, with [his] the tax collector's
14 recommendations thereon, refer the same to the selectmen if a town
15 not consolidated with a city or borough, to the common council or
16 mayor and board of aldermen if a city, to the warden and burgesses if
17 a borough or to the governing board if any other municipality, for
18 authority to continue the lien securing such tax for a period not
19 exceeding fifteen years. If action granting such authority is taken
20 within sixty days from the receipt thereof, but not otherwise, the tax
21 collector shall make out and file, within the first year after the first
22 installment of the tax, or the whole tax in case installment payments

23 are not authorized, has become due, a certificate containing the
24 information required in section 12-173, and the town clerk shall record
25 such certificate; provided, (1) the tax collector shall notify the owner of
26 such real estate of the intent to file a lien by mail not later than fifteen
27 days prior to the filing of such lien, and (2) if such affidavit is
28 approved with respect to any installment, the succeeding installments,
29 if any, shall become due and payable from the due date of such
30 installment, and such certificate shall be made out and recorded to
31 secure payment of all unpaid installments of such tax. Failure to notify
32 such owner of the intent to file a lien shall not affect the validity of the
33 lien. Each tax, the lien for which has been continued by certificate
34 under the provisions of this section, shall not be subject to interest as
35 provided by section 12-146. Each lien continued by certificate under
36 the provisions of this section shall be subject to foreclosure at any time,
37 but shall be invalid after the expiration of fifteen years from the date of
38 recording the certificate continuing the same, unless an action of
39 foreclosure has been commenced within such time. After the
40 expiration of such period of fifteen years, if such action has not been
41 commenced, the [town clerk] tax collector then in office shall, upon the
42 request of any interested person, discharge such lien of record by
43 [noting on the margin thereof the words "Discharged by operation of
44 law", together with the date and his signature] recording a discharge of
45 lien in the office of the town clerk of the town in which such real estate
46 is situated.

47 Sec. 2. Section 12-175 of the general statutes is repealed and the
48 following is substituted in lieu thereof (*Effective October 1, 2009*):

49 In addition to the method of procuring the continuance of the lien
50 provided in section 12-174, as amended by this act, the tax collector of
51 any municipality may continue any tax lien upon any item of real
52 estate by making out a certificate containing the information required
53 by the provisions of section 12-173. Each certificate authorized by the
54 provisions of this section shall be filed in the office of the town clerk of
55 the town in which such real estate is situated not later than two years
56 after the first installment of the tax, or the whole tax in case installment

57 payments are not authorized, has become due, and the town clerk shall
58 record such certificate in the land records of such town, provided the
59 tax collector shall notify the owner of such real estate of the intent to
60 file a lien by mail not later than fifteen days prior to the filing of such
61 lien. Failure to notify such owner shall not affect the validity of the
62 lien. Each such tax, as it may have been increased by interest, fees and
63 charges provided for by law, shall remain a lien upon such real estate
64 from the date of the filing of such certificate; and any tax lien so
65 continued, when the amount due has been paid, may be discharged by
66 a certificate of the then tax collector [of taxes] recorded in such land
67 records; but any tax lien upon private property which has been
68 recorded in the land records of any town for more than fifteen years
69 from the due date of the tax shall be invalid, and such property shall
70 be free from the encumbrance of such lien, unless an action of
71 foreclosure has been commenced during such period of fifteen years
72 and a notice of lis pendens filed for record, and the [town clerk] tax
73 collector shall, if no such notice has been filed, upon the request of any
74 interested person, discharge such lien of record by [noting on the
75 margin of such record the words, "Discharged by operation of law"]
76 recording a discharge of lien in the office of the town clerk of the town
77 in which such property is situated.

78 Sec. 3. Section 47-70a of the general statutes is repealed and the
79 following is substituted in lieu thereof (*Effective October 1, 2009*):

80 (a) The declaration shall be amended only by vote of two-thirds of
81 the unit owners, and the bylaws shall be amended by vote of a
82 majority of unit owners, at any meeting of the unit owners' association
83 duly called for either purpose, following written notice to all unit
84 owners and their mortgagees appearing on the records of the
85 association, except that if such amendment whether of the declaration
86 or of the bylaws directly or indirectly changes the boundaries of any
87 unit, the undivided interest in the common elements appertaining
88 thereto, the liability for common elements appertaining thereto, the
89 liability for common expenses or rights to common profits
90 appertaining thereto, or the number of votes in the unit owners'

91 association appertaining thereto, such amendment shall require the
92 affirmative vote of seventy-five per cent of the unit owners and shall,
93 in addition, require the consent of the mortgagees of at least seventy-
94 five per cent of the units subject to mortgage.

95 (b) The declarant may require a unit owner or purchaser to execute
96 and to deliver to the declarant a power of attorney or other document
97 assigning to the declarant the right of a unit owner to vote on the
98 amendment of condominium instruments pursuant to subsection (a) of
99 this section, provided such power of attorney or other document shall
100 be exercised or implemented only to amend the condominium
101 instruments for the purpose of adding additional land in an
102 expandable condominium pursuant to section 47-71a, and to reallocate
103 the undivided interests in the common elements resulting from such
104 expansion pursuant to subsection (c) of section 47-74, and the power of
105 attorney or other document shall be expressly so limited.

106 (c) Notwithstanding any other provision of this chapter or the
107 condominium instruments, the designation of the agent for the service
108 of process named in the declaration may be changed from time to time
109 by recording in the land records wherein the declaration is recorded
110 the instrument for designation of an agent for service of process, which
111 if the association is incorporated, shall be a copy of the instrument
112 transmitted to the Secretary of the State or if not incorporated, an
113 instrument including the same information as such an instrument for
114 designation of agent. In addition, the instrument for designation shall
115 refer to the volume and first page of the original condominium
116 instruments, [and a marginal notation thereon shall be made by the
117 town clerk of such change.]

118 Sec. 4. Section 47-270 of the general statutes is repealed and the
119 following is substituted in lieu thereof (*Effective October 1, 2009*):

120 (a) Except in the case of a sale in which delivery of a public offering
121 statement is required under either this chapter or chapter 825, or
122 unless exempt under subsection (b) of section 47-262, a unit owner

123 shall furnish to a purchaser or such purchaser's attorney, before the
124 earlier of conveyance or transfer of the right to possession of a unit, a
125 copy of the declaration, other than any surveys and plans, the bylaws,
126 the rules or regulations of the association, and a certificate containing:
127 (1) A statement disclosing the effect on the proposed disposition of any
128 right of first refusal or other restraint on the free alienability of the unit
129 held by the association; (2) a statement setting forth the amount of the
130 periodic common expense assessment and any unpaid common
131 expense or special assessment currently due and payable from the
132 selling unit owner; (3) a statement of any other fees payable by the
133 owner of the unit being sold; (4) a statement of any capital
134 expenditures in excess of one thousand dollars approved by the
135 executive board for the current and next succeeding fiscal year; (5) a
136 statement of the amount of any reserves for capital expenditures; (6)
137 the current operating budget of the association; (7) a statement of any
138 unsatisfied judgments against the association and the existence of any
139 pending suits in which the association is a defendant; (8) a statement of
140 the insurance coverage provided for the benefit of unit owners; (9) a
141 statement of any restrictions in the declaration affecting the amount
142 that may be received by a unit owner on sale, condemnation, casualty
143 loss to the unit or the common interest community or termination of
144 the common interest community; (10) in a cooperative, an accountant's
145 statement, if any was prepared, as to the deductibility for federal
146 income tax purposes by the unit owner of real property taxes and
147 interest paid by the association; (11) if the association is
148 unincorporated, the name of the statutory agent for service of process
149 filed with the Secretary of the State pursuant to section 47-244a; (12) a
150 statement describing any pending sale or encumbrance of common
151 elements; and (13) a statement disclosing the effect on the unit to be
152 conveyed of any restrictions on the owner's right to use or occupy the
153 unit or to lease the unit to another person.

154 (b) (1) Not later than ten business days after receipt of a written
155 request from a unit owner and payment by the unit owner of a fee
156 established by the association that reflects the actual printing,

157 photocopying and related costs, but in no event in excess of one
158 hundred twenty-five dollars, for the preparation of the certificate and
159 other documents, the association shall furnish a certificate containing
160 the information necessary to enable the unit owner to comply with this
161 section and any other documents required by this section. The
162 association shall itemize the actual printing, photocopying and related
163 costs and provide a list of the itemized costs to the unit owner with the
164 certificate and documents. An additional fee of not more than ten
165 dollars for expedited preparation may be established if the certificate
166 and all required documents are furnished to the unit owner not later
167 than three business days after the written request is received by the
168 association. No fee under this subsection may include costs for services
169 provided by an attorney or paralegal.

170 (2) A unit owner providing a certificate and documents pursuant to
171 subsection (a) of this section is not liable to the purchaser for any
172 erroneous information provided by the association and included in the
173 certificate and documents.

174 (c) A purchaser is not liable for any unpaid assessment or fee greater
175 than the amount set forth in the certificate prepared by the association.
176 A unit owner is not liable to a purchaser for the failure or delay of the
177 association to provide the certificate and documents in a timely
178 manner, but the purchase contract is voidable by the purchaser until
179 (1) the expiration of five days, excluding Saturdays, Sundays and legal
180 holidays, after the certificate and documents have been delivered to
181 such purchaser or such purchaser's attorney, or seven days, excluding
182 Saturdays, Sundays and legal holidays, after the certificate and
183 documents have been sent by registered or certified mail or mail
184 evidenced by a certificate of mailing to such purchaser or such
185 purchaser's attorney, or (2) conveyance, whichever first occurs.

186 (d) A dealer who offers a unit which he owns shall, in addition to
187 the material provided to a purchaser or such purchaser's attorney
188 under subsection (a) of this section, furnish to such purchaser or such
189 purchaser's attorney a copy of any public offering statement that the

190 dealer received at the time he purchased his unit.

191 (e) The association shall, during the month of January in each year,
192 [file] record in the land records in the office of the town clerk of the
193 municipality or municipalities where such common interest
194 community is located a certificate setting forth the name and mailing
195 address of the officer of the association or the managing agent from
196 whom a resale certificate may be requested, and shall, thereafter, [file]
197 record in the land records such a certificate within thirty days of any
198 change in the name or address of such officer or agent. [The town clerk
199 shall keep such certificate on file in his office and make it available for
200 inspection.]

201 Sec. 5. Section 49-13 of the general statutes is repealed and the
202 following is substituted in lieu thereof (*Effective October 1, 2009*):

203 (a) When the record title to real property is encumbered (1) by any
204 undischarged mortgage, and (A) the mortgagor or those owning the
205 mortgagor's interest therein have been in undisturbed possession of
206 the property for at least six years after the expiration of the time
207 limited in the mortgage for the full performance of the conditions
208 thereof, and for six years next preceding the commencement of any
209 action under this section, or (B) the promissory note or other written
210 evidence of the indebtedness secured by the mortgage is payable on
211 demand and seventeen years have passed without any payment on
212 account of such note or other written evidence of indebtedness, or (C)
213 the mortgage does not disclose the time when the note or indebtedness
214 is payable or disclose the time for full performance of the conditions of
215 the mortgage and ten years have passed without any payment on
216 account of the promissory note or other written evidence of
217 indebtedness, or (D) the note or evidence of indebtedness has been
218 paid or a bona fide offer and tender of the payment has been made
219 pursuant to section 49-8, or (E) the mortgage has become invalid, and
220 in any of such cases no release of the encumbrance to secure such note
221 or evidence of indebtedness has been given, or (2) by a foreclosed
222 mortgage and the mortgagor has made a bona fide offer and tender of

223 payment of the foreclosure judgment on or before the mortgagor's law
224 day and the mortgagee has refused to accept payment, or (3) by an
225 attachment, lis pendens or other lien which has become of no effect,
226 the person owning the property, or the equity in the property, may
227 bring a petition to the superior court for the judicial district in which
228 the property is situated, setting forth the facts and claiming a judgment
229 as provided in this section. The plaintiff may also claim in the petition
230 damages as set forth in section 49-8 if the plaintiff is aggrieved by the
231 failure of the defendant to execute the release prescribed in said
232 section.

233 (b) The petition shall be served upon all persons interested in the
234 mortgage, attachment, lis pendens or other lien in the manner
235 provided by law for process in civil actions and, in any action where
236 the parties who may have an interest in the property and should be
237 made parties thereto cannot be located by and are unknown to the
238 petitioner in the action, the petitioner or the petitioner's attorney shall
239 annex to the petition in the action an affidavit stating that the
240 petitioner does not know who the interested parties are or where they
241 reside, or, if the party interested in the property is a corporation whose
242 corporate existence has been legally terminated, or the corporation is
243 no longer in existence or doing business, and the petitioner or the
244 petitioner's attorney states that fact in an affidavit, the court to which
245 the action is brought or the clerk, assistant clerk or any judge thereof
246 may make such order relative to the notice which shall be given in the
247 cause as the court, clerk, assistant clerk or judge deems reasonable.

248 (c) Such notice having been given according to the order and duly
249 proven, the court may proceed to a hearing of the cause at such time as
250 it deems proper, and, if no evidence is offered of any payment on
251 account of the debt secured by the mortgage within a period set out in
252 subsection (a) of this section, or of any other act within such a period
253 as provided in said subsection (a) in recognition of its existence as a
254 valid mortgage, or if the court finds the mortgage has been satisfied
255 but no release given as evidence of such satisfaction, or if the court
256 finds that a bona fide offer and tender of payment of the foreclosure

257 judgment or mortgage has been made and refused, or if the court finds
258 the attachment, lis pendens or other lien has become of no effect, the
259 court may render a judgment reciting the facts and its findings in
260 relation thereto and declaring the mortgage, foreclosure judgment,
261 attachment, lis pendens or other lien invalid as a lien against the real
262 estate, and may order payment of any balance of indebtedness due on
263 the mortgage or foreclosure judgment to the clerk of the court to be
264 held for the benefit of the mortgagee or the persons interested and to
265 be paid to the mortgagee by the clerk of the court upon application of
266 the mortgagee or persons interested following the execution of a
267 release of mortgage.

268 (d) Upon deposit of the balance of indebtedness with the clerk, such
269 judgment shall issue, which judgment shall, within thirty days
270 thereafter, be recorded in the land records of the town in which the
271 property is situated, and the encumbrance created by the mortgage,
272 foreclosure judgment, attachment, lis pendens or other lien shall be
273 null and void and totally discharged. [The town clerk of the town in
274 which the real estate is situated shall, upon the request of any person
275 interested, endorse on the record of the encumbrance or lien the words
276 "discharged by judgment of the Superior Court", and list the volume
277 and page number in the land records where the judgment is recorded.]

278 Sec. 6. Section 49-88 of the general statutes is repealed and the
279 following is substituted in lieu thereof (*Effective October 1, 2009*):

280 A lien on real estate arising under the provisions of section 49-86
281 shall not continue in force as a lien for a longer period than fifteen
282 years after the date thereof unless within said period an action on the
283 bond in connection with which the notice of lien was filed has been
284 prosecuted to effect and a judgment lien against the surety filed
285 according to law. All liens on real estate which have expired under the
286 provisions of this section shall be deemed dissolved and the real estate
287 shall be free from any lien or encumbrance by reason of the same and
288 the town clerk of the town in which the real estate is situated shall,
289 upon the request of any person interested, [endorse on the record of

290 the notice of lien the words "discharged by operation of law"]
291 discharge such lien of record by recording a discharge of lien.

292 Sec. 7. Section 49-90 of the general statutes is repealed and the
293 following is substituted in lieu thereof (*Effective October 1, 2009*):

294 If any lien arising under the provisions of section 49-86 has been
295 made and the plaintiff has withdrawn his suit or has been nonsuited or
296 final judgment has been rendered against him, or if such suit has not
297 been returned, or if for any reason such lien has become of no effect,
298 the clerk of the court to which such suit has been made returnable
299 shall, upon the request of any person interested, issue a certificate in
300 accordance with the facts, which certificate may be [filed] recorded in
301 the office of the town clerk [, and such town clerk shall note on the
302 margin of the record where such lien is recorded] of the town in which
303 the real estate is situated.

304 Sec. 8. Section 49-91 of the general statutes is repealed and the
305 following is substituted in lieu thereof (*Effective October 1, 2009*):

306 In any proceeding wherein a lien has been filed pursuant to the
307 provisions of section 49-86, if the plaintiff therein has received
308 satisfaction for his claim, or final judgment has been rendered against
309 him thereon, or when for any reason the lien has become of no effect,
310 the plaintiff or his attorney, at the request of any person interested in
311 the estate liened or in having the lien removed, shall [lodge] record a
312 certificate [with the town clerk] that the lien is removed [. Each such
313 certificate shall be recorded at length in a book kept for that purpose
314 by the] in the office of the town clerk as a part of the land records of
315 the town wherein the property affected by the release is located or
316 wherein the notice of lien was filed.

317 Sec. 9. Section 52-322 of the general statutes is repealed and the
318 following is substituted in lieu thereof (*Effective October 1, 2009*):

319 When the estate of any person has been attached in any proceeding
320 wherein a certificate of such attachment or a copy of the writ or

321 proceeding is required by law to be filed in the office of the town clerk,
322 and the plaintiff therein has received satisfaction for [his] the plaintiff's
323 claim, or final judgment has been rendered against [him] the plaintiff
324 thereon, or when for any reason such attachment has become of no
325 effect, such plaintiff or [his] the plaintiff's attorney, at the request of
326 any person interested in the estate attached or in having the
327 attachment lien removed, shall [lodge] record a certificate with such
328 town clerk that such attachment is dissolved and such lien removed.
329 Each such certificate shall be recorded [at length in a book kept for that
330 purpose] by such clerk as a part of the land records of the town
331 wherein the property affected by the release is located or wherein the
332 certificate of attachment was filed.

333 Sec. 10. Section 52-324 of the general statutes is repealed and the
334 following is substituted in lieu thereof (*Effective October 1, 2009*):

335 If an attachment, such as is set forth in section 52-322, as amended
336 by this act, has been made and the plaintiff has withdrawn [his] the
337 plaintiff's suit or has been nonsuited or final judgment has been
338 rendered against [him] the plaintiff, or if such suit has not been
339 returned, or if for any reason such attachment has become of no effect,
340 the clerk of the court to which such suit has been made returnable
341 shall, upon the request of any person interested, issue a certificate in
342 accordance with the facts, which certificate may be [filed] recorded in
343 the office of the town clerk, [, and shall by such town clerk be noted on
344 the margin of the record where such attachment is recorded.]

345 Sec. 11. Section 52-327 of the general statutes is repealed and the
346 following is substituted in lieu thereof (*Effective October 1, 2009*):

347 No attachment of real estate shall continue in force as a lien for a
348 longer period than fifteen years after the date thereof unless within
349 said period the action in which such attachment was made has been
350 prosecuted to effect and a judgment lien filed according to law. All
351 attachments of real estate which have expired as a lien by the
352 provisions of this section shall be deemed dissolved and the real estate

353 shall be free from any lien or encumbrance by reason of the same and
 354 the [town clerk of the town in which such real estate is situated shall,
 355 upon the request of any person interested, endorse on the record of
 356 such attachment the words "discharged by operation of law"] plaintiff
 357 or the plaintiff's attorney, at the request of any person interested in the
 358 estate attached or in having the attachment lien removed, shall record
 359 a certificate with the town clerk of the town in which such real estate is
 360 situated that such attachment is dissolved and such lien removed. Each
 361 such certificate shall be recorded by such clerk as a part of the land
 362 records of the town wherein the property affected by the release is
 363 located or wherein the certificate of attachment was filed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	12-174
Sec. 2	<i>October 1, 2009</i>	12-175
Sec. 3	<i>October 1, 2009</i>	47-70a
Sec. 4	<i>October 1, 2009</i>	47-270
Sec. 5	<i>October 1, 2009</i>	49-13
Sec. 6	<i>October 1, 2009</i>	49-88
Sec. 7	<i>October 1, 2009</i>	49-90
Sec. 8	<i>October 1, 2009</i>	49-91
Sec. 9	<i>October 1, 2009</i>	52-322
Sec. 10	<i>October 1, 2009</i>	52-324
Sec. 11	<i>October 1, 2009</i>	52-327

Statement of Legislative Commissioners:

Changes were made in sections 1, 2, 6, 8, 9 and 11 for consistency.

JUD *Joint Favorable Subst.-LCO*