

**Proposed Substitute
Bill No. 887**

LCO No. 5074

AN ACT CONCERNING THE FILING OF A MECHANIC'S LIEN.

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

1 Section 1. Section 49-33 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) If any person, whether classified as an independent contractor or
4 employee, has a claim for more than ten dollars (1) for materials
5 furnished or services rendered in the construction, raising, removal or
6 repairs of any building or any of its appurtenances or in the
7 improvement of any lot or in the site development or subdivision of
8 any plot of land, or (2) for any other service rendered to an owner of
9 land, and the claim is by virtue of an agreement with or by consent of
10 the owner of the land upon which the building is being erected or has
11 been erected or has been moved, or by consent of the owner of the lot
12 being improved or by consent of the owner of the plot of land being
13 improved or subdivided, or of some person having authority from or
14 rightfully acting for the owner in procuring the labor or materials, or
15 by virtue of an agreement with or by consent of the owner of land for
16 whom such other service was rendered, the building, with the land on
17 which it stands or the lot or in the event that the materials were
18 furnished or services were rendered in the site development or
19 subdivision of any plot of land, then the plot of land, is subject to the

20 payment of the claim.

21 (b) The claim is a lien on the land, building and appurtenances or lot
22 or in the event that the materials were furnished or services were
23 rendered in the site development or subdivision of any plot of land,
24 then on the plot of land and the claim takes precedence over any other
25 encumbrance originating after the commencement of the services, or
26 the furnishing of any such materials, subject to apportionment as
27 provided in section 49-36.

28 (c) If any such liens exist in favor of two or more persons for
29 materials furnished or services rendered in connection with the same
30 construction, raising, removal or repairs of any building or any of its
31 appurtenances, or in the improvement of any lot, or in the site
32 development or subdivision of any plot of land, or any other service
33 rendered to an owner of land, no one of those persons shall have any
34 priority over another except as hereinafter provided.

35 (d) If any instrument constituting a valid encumbrance upon such
36 land other than a mechanic's lien is filed for record while the building
37 is being constructed, raised, removed or repaired, or the lot is being
38 improved, or the plot of land is being improved or subdivided, or
39 while any other service is being rendered, all such mechanic's liens
40 originating prior to the filing of that instrument for record take
41 precedence over that encumbrance and no such mechanic's lien shall
42 have priority over any other such mechanic's lien. That encumbrance
43 and all such mechanic's liens shall take precedence over any
44 mechanic's lien which originates for materials furnished or services
45 rendered after the filing of that instrument for record, but no one of the
46 mechanic's liens originating after the filing of that instrument for
47 record has precedence over another. If any lienor waives or releases his
48 lien or claim of precedence to any such encumbrance, that lien shall be
49 classed with and have no priority over liens originating subsequent to
50 that encumbrance.

51 (e) A mechanic's lien shall not attach to any such building or its

52 appurtenances or to the land on which the same stands or to any lot or
53 to any plot of land, in favor of any subcontractor to a greater extent in
54 the whole than the amount which the owner has agreed to pay to any
55 person through whom the subcontractor claims subject to the
56 provisions of section 49-36.

57 (f) Any such subcontractor shall be subrogated to the rights of the
58 person through whom the subcontractor claims, except that the
59 subcontractor shall have a mechanic's lien or right to claim a
60 mechanic's lien in the event of any default by that person subject to the
61 provisions of sections 49-34, as amended by this act, 49-35, as amended
62 by this act, and 49-36, provided the total of such lien or liens shall not
63 attach to any building or its appurtenances, or to the land on which the
64 same stands or to any lot or to any plot of land, to a greater amount in
65 the whole than the amount by which the contract price between the
66 owner and the person through whom the subcontractor claims exceeds
67 the reasonable cost, either estimated or actual, as the case may be, of
68 satisfactory completion of the contract plus any damages resulting
69 from such default for which that person might be held liable to the
70 owner and all bona fide payments, as defined in section 49-36, made
71 by the owner before receiving notice of such lien or liens.

72 (g) In the case of the removal of any building, no such mechanic's
73 lien shall take precedence over any encumbrance upon the land to
74 which such building has been removed which accrued before the
75 building was removed upon the land.

76 (h) If any person has a claim for more than ten dollars for materials
77 furnished or services rendered in the construction, raising, removal or
78 repairs of any real property, and the claim is by virtue of an agreement
79 with or by consent of the lessee of such real property or of some person
80 having authority from or rightfully acting for such lessee in procuring
81 the materials or labor, then the leasehold interest in such real property
82 is subject to the payment of the claim. This subsection shall not be
83 construed to limit any of the rights or remedies available to such
84 person under subsection (a) of this section.

85 (i) Any mechanic's lien may be foreclosed in the same manner as a
86 mortgage.

87 Sec. 2. Section 49-34 of the general statutes is repealed and the
88 following is substituted in lieu thereof (*Effective October 1, 2015*):

89 A mechanic's lien is not valid unless the person performing the
90 services or furnishing the materials (1) within ninety days after he has
91 ceased to do so, lodges with the town clerk of the town in which the
92 building, lot or plot of land is situated a certificate in writing, which
93 shall be recorded by the town clerk with deeds of land, (A) describing
94 the premises, the amount claimed as a lien thereon, the name or names
95 of the person against whom the lien is being filed and the date of the
96 commencement of the performance of services or furnishing of
97 materials, (B) stating that the amount claimed is justly due, as nearly as
98 the same can be ascertained, and (C) subscribed and sworn to by the
99 claimant, [and] (2) not later than thirty days after lodging the
100 certificate, serves a true and attested copy of the certificate upon the
101 owner of the building, lot or plot of land in the same manner as is
102 provided for the service of the notice in section 49-35, as amended by
103 this act, and (3) holds the appropriate registration or license to perform
104 the services.

105 Sec. 3. Section 49-35 of the general statutes is repealed and the
106 following is substituted in lieu thereof (*Effective October 1, 2015*):

107 (a) No person other than the original contractor for the construction,
108 raising, removal or repairing of the building, or the development of
109 any lot, or the site development or subdivision of any plot of land, or
110 any other service rendered to an owner of land or a subcontractor
111 whose contract with the original contractor is in writing and has been
112 assented to in writing by the other party to the original contract, is
113 entitled to claim any such mechanic's lien, unless, after commencing,
114 and not later than ninety days after ceasing, to furnish materials or
115 render services for such construction, raising, removal or repairing,
116 such person gives written notice to the owner of the building, lot or

117 plot of land and to the original contractor that he or she has furnished
118 or commenced to furnish materials, or rendered or commenced to
119 render services, and intends to claim a lien therefor on the building, lot
120 or plot of land; provided an original contractor shall not be entitled to
121 such notice, unless, not later than fifteen days after commencing the
122 construction, raising, removal or repairing of the building, or the
123 development of any lot, or the site development or subdivision of any
124 plot of land, or any other service rendered to an owner of land, such
125 original contractor lodges with the town clerk of the town in which the
126 building, lot or plot of land is situated an affidavit in writing, which
127 shall be recorded by the town clerk with deeds of land, (1) stating the
128 name under which such original contractor conducts business, (2)
129 stating the original contractor's business address, and (3) describing
130 the building, lot or plot of land. The right of any person to claim a lien
131 under this section shall not be affected by the failure of such affidavit
132 to conform to the requirements of this section. The notice shall be
133 served upon the owner or original contractor, if such owner or original
134 contractor resides in the same town in which the building is being
135 erected, raised, removed or repaired or the lot is being improved, or
136 the plot of land is being improved or subdivided, by any indifferent
137 person, state marshal or other proper officer, by leaving with such
138 owner or original contractor or at such owner's or the original
139 contractor's usual place of abode a true and attested copy thereof. If
140 the owner or original contractor does not reside in such town, but has
141 a known agent therein, the notice may be so served upon the agent,
142 otherwise it may be served by any indifferent person, state marshal or
143 other proper officer, by mailing a true and attested copy of the notice
144 by registered or certified mail to the owner or original contractor at the
145 place where such owner or the original contractor resides. If such copy
146 is returned unclaimed, notice to such owner or original contractor shall
147 be given by publication in accordance with the provisions of section 1-
148 2. When there are two or more owners, or two or more original
149 contractors, the notice shall be so served on each owner and on each
150 original contractor. The notice, with the return of the person who
151 served it endorsed thereon, shall be returned to the original maker of

152 the notice not later than thirty days after the filing of the certificate
153 pursuant to section 49-34, as amended by this act.

154 (b) No subcontractor, without a written contract complying with the
155 provisions of this section, and no person who furnishes material or
156 renders services by virtue of a contract with the original contractor or
157 with any subcontractor, may be required to obtain an agreement with,
158 or the consent of, the owner of the land, as provided in section 49-33,
159 as amended by this act, to enable him to claim a lien under this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	49-33
Sec. 2	<i>October 1, 2015</i>	49-34
Sec. 3	<i>October 1, 2015</i>	49-35