
OLR Bill Analysis

sHB 6369

AN ACT CONCERNING ISSUES RELATING TO MORTGAGES AND MECHANIC'S LIENS.

SUMMARY

This bill allows the owner of real estate subject to a mechanic's lien, or any other individual with interest in the property, to substitute the lien with a bond without first applying to the court as required by current law.

The bill also requires a mortgagee (lender), or any person authorized to release a mortgage, to send a notice of the release when a mortgage is paid-off or in certain other instances to the town clerk of the town where the mortgaged property is located. Specifically, the notice must be sent when:

1. the mortgage is paid off;
2. a bona fide offer exists to pay off the mortgage or part of the mortgage, in accordance with its terms upon a release; or
3. the interested parties have a written agreement to partially release the mortgage.

Additionally, the mortgagee or authorized person must send a copy of the release to the mortgagor (borrower) (§ 1).

The bill also requires a mortgagee to accept, as payment or partial payment to satisfy a mortgage, a bank or certified check; attorney's clients' funds check; title insurance company check; wire transfer; or any other payment authorized by federal law (§ 2).

EFFECTIVE DATE: October 1, 2021

§ 3 — SUBSTITUTING A MECHANIC'S LIEN

Under the bill, a mechanic's lien is dissolved when the owner or interested party lodges the bond with the town clerk where the property is located. The bond must (1) substantially conform to language the bill prescribes and (2) be for sufficient surety, including interest, costs, and attorney's fees, which the bill sets at 125% of the lien amount. However, this amount does not limit the lienor's potential recovery in any action to recover against the bond.

Under current law, a plaintiff in an action to foreclose against a lien may amend his or her complaint to make the action upon a substituted bond instead; the bill now requires the plaintiff to do so in order to recover on the claim.

The bill also (1) requires the real estate owner to serve a record of the bond with the lienor according to existing service of process laws and (2) allows a plaintiff to recover costs and fees in a judgement against the bond equivalent to what existing law allows in a judgement against a lien.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 18 Nay 0 (02/23/2021)