

ASSEMBLY, No. 2511

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)

SYNOPSIS

Permits construction workers to file a lien against the owner of real property under “Construction Lien Law.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain construction lien claims and amending
2 P.L.1993, c.318.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 3 of P.L.1993, c.318 (C.2A:44A-3) is amended to
8 read as follows:

9 3. a. Any contractor, subcontractor **【or】** supplier or
10 construction worker who provides work, services, material or
11 equipment pursuant to a contract, including a collective bargaining
12 agreement between a labor organization and a contractor or
13 subcontractor in direct privity of contract with the owner shall be
14 entitled to a lien for the value of the work or services performed, or
15 materials or equipment furnished in accordance with the contract
16 and based upon the contract price, subject to sections 6, 9, and 10
17 of P.L.1993, c.318 (C.2A:44A-6, 2A:44A-9 and 2A:44A-10). The
18 lien shall attach to the interest of the owner or unit owner of the
19 real property development, or be filed against the community
20 association, in accordance with this section.

21 b. For purposes of this section:

22 (1) "interest of the owner of the real property development"
23 includes interest in any residential or nonresidential units not yet
24 sold or transferred and the proportionate undivided interests in the
25 common elements attributable to those units;

26 (2) "interest of the unit owner" includes the proportionate
27 undivided interests in the common elements of the real property
28 development;

29 (3) "unit owner" means an owner of an interest in a residential
30 or nonresidential unit who is not a developer of the property and
31 acquires the unit after the master deed or master declaration is
32 recorded, or after the public offering statement is filed with the
33 Department of Community Affairs; and

34 c. In the case of a condominium, notwithstanding the
35 provisions of the "Condominium Act," P.L.1969, c.257 (C.46:8B-1
36 et seq.), or in the case of any other real property development with
37 common elements or common areas or facilities, if the contract is:

38 (1) with the owner of the real property development, then the
39 lien shall attach to the interest of the owner of the real property
40 development;

41 (2) with the community association, the lien claim shall be filed
42 against the community association but shall not attach to any real
43 property.

44 In either case, if the work, services, material or equipment are
45 performed or furnished as part of the common elements or facilities

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 of a real property development, the lien shall not attach to the
2 interest of the unit owner.

3 d. If the work, services, material or equipment are performed or
4 furnished solely within or as part of a residential or nonresidential
5 unit, the lien shall attach only to the interest of the unit owner.

6 e. If a tenant contracts for improvement of the real property,
7 the lien shall attach to the leasehold estate of the tenant and to the
8 interest in the property of any person who:

9 (1) has expressly authorized the contract for improvement in
10 writing signed by the person against whom the lien claim is
11 asserted, which writing provides that the person's interest is subject
12 to a lien for this improvement;

13 (2) has paid, or agreed in writing to pay, the majority of the cost
14 of the improvement; or

15 (3) is a party to the lease or sublease that created the leasehold
16 interest of the tenant and the lease or sublease provides that the
17 person's interest is subject to a lien for the improvement.

18 f. An amount of a lien on an interest of a person other than a
19 tenant shall be limited to the amount that person agreed in writing
20 to pay, less payments made by or on behalf of that person in good
21 faith prior to the filing of the lien.

22 g. If an interest in real property is lawfully conveyed after
23 work, services, material, or equipment are performed or furnished
24 but before a lien attaches, the lien shall attach only to the interest
25 retained by the owner or unit owner or community association, as
26 the case may be, who contracted for the work, services, material or
27 equipment and not to the interest previously conveyed.

28 h. Nothing in this act shall be construed to limit the right of
29 any claimant from pursuing any other remedy provided by law.

30 (cf: P.L.2010, c.119, s.2)

31

32 2. Section 6 of P.L.1993, c.318 (C.2A:44A-6) is amended to
33 read as follows:

34 6. a. A contractor, subcontractor or supplier entitled to file a
35 lien pursuant to section 3 of P.L.1993, c.318 (C.2A:44A-3) shall do
36 so according to the following process:

37 (1) The lien claim form as provided by section 8 of P.L.1993,
38 c.318 (C.2A:44A-8) shall be signed, acknowledged and verified by
39 oath of the claimant setting forth:

40 (a) the specific work or services performed, or material or
41 equipment provided pursuant to contract; and

42 (b) the claimant's identity and contractual relationship with the
43 owner or community association and other known parties in the
44 construction chain.

45 (2) In all cases except those involving a residential construction
46 contract, the lien claim form shall then be lodged for record within
47 90 days following the date the last work, services, material or
48 equipment was provided for which payment is claimed. In the case

1 of a residential construction contract, the lien claim form shall be
2 lodged for record, as required by paragraph (8) of subsection b. of
3 section 21 of P.L.1993, c.318 (C.2A:44A-21), not later than 10 days
4 after receipt by the claimant of the arbitrator's determination, and
5 within 120 days following the date the last work, services, material
6 or equipment was provided for which payment is claimed. If
7 requested, at the time of lodging for record, the clerk shall provide a
8 copy of the lien claim form marked with a date and time received.
9 For the purposes of this section, a labor organization, construction
10 worker benefit fund, agent, or other representative duly authorized
11 to represent the interest of the claimant may file a lien claim on
12 behalf of the claimant as an individual or on behalf of a class of
13 individuals for work, services, material or equipment provided.

14 b. A lien shall not attach or be enforceable unless the lien claim
15 or other document permitted to be filed is:

16 (1) filed in the manner and form provided by this section and
17 section 8 of P.L.1993, c.318 (C.2A:44A-8); and

18 (2) a copy thereof served in accordance with section 7 of
19 P.L.1993, c.318 (C.2A:44A-7), except that every document lodged
20 for record that satisfies the requirements of this section, even if not
21 yet filed, shall be enforceable against parties with notice of the
22 document. A document shall be first filed, however, in order to be
23 enforceable against third parties without notice of the document,
24 including, but not limited to, an owner, bona fide purchaser,
25 mortgagee, grantee of an easement, or a lessee or a grantee of any
26 other interest in real estate.

27 c. In the case of a residential construction contract the lien
28 claim shall also comply with section 20 of P.L.1993, c.318
29 (C.2A:44A-20) and section 21 of P.L.1993, c.318 (C.2A:44A-21).

30 d. For purposes of this act, warranty or other service calls, or
31 other work, materials or equipment provided after completion or
32 termination of a claimant's contract shall not be used to determine
33 the last day that work, services, material or equipment was
34 provided.

35 (cf: P.L.2010, c.119, s.3)

36
37 3. This act shall take effect immediately.

40 STATEMENT

41
42 This bill permits a construction worker to file a lien against the
43 owner of real property for the value of the work or services
44 performed, or materials or equipment furnished in accordance with
45 a given contract. The bill states that a contract may include a
46 collective bargaining agreement between a labor organization and a
47 contractor or subcontractor in direct privity of contract with the
48 owner.

1 The bill also permits a labor organization, construction worker
2 benefit fund, agent, or other representative duly authorized to
3 represent the interest of the claimant to file a lien claim on behalf of
4 the claimant as an individual or on behalf of a class of individuals.

5 Currently, under the “Construction Lien Law,” P.L.1993, c.318
6 (C.2A:44A-1 et seq.), only a contractor, subcontractor or supplier
7 may file a construction lien against the owner of real property. This
8 puts a worker at a disadvantage with respect to recovering
9 delinquent wages and benefits. This bill eliminates that
10 disadvantage by permitting a construction worker to file a lien
11 against the owner of real property.