S T A T E O F N E W Y O R K

3513

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. GIANARIS -- read once and referred to the Committee on Judiciary

AN ACT to amend the lien law, in relation to the right of professional surveyors to place liens on real property for performance of surveying services in the state of New York

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 3 of the lien law, as amended by chapter 137 of the laws of 1985, is amended to read as follows:

S 3. Mechanic's lien on real property. 1. A contractor, subcontractor, laborer, materialman, landscape gardener, nurseryman or person or corporation selling fruit or ornamental trees, roses, shrubbery, vines and small fruits, who performs labor or furnishes materials for the improvement of real property with the consent or at the request of the owner thereof, or of his OR HER agent, contractor or subcontractor, and any trust fund to which benefits and wage supplements are due or payable for the benefit of such laborers, shall have a lien for the principal and interest, of the value, or the agreed price, of such labor, including benefits and wage supplements due or payable for the benefit of any laborer, or materials upon the real property improved or to be improved and upon such improvement, from the time of filing a notice of such lien as prescribed in this chapter. Where the contract for an improvement is made with a husband or wife and the property belongs to the other or both, the husband or wife contracting shall also be presumed to be the agent of the other, unless such other having knowledge of the improvement shall, within ten days after learning of the contract give the contractor written notice of his or her refusal to consent to the improvement. Within the meaning of the provisions of this chapter, materials actually manufactured for but not delivered to the real property, shall also be deemed to be materials furnished.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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2. A LICENSED LAND SURVEYOR, WHO PERFORMS LABOR OR FURNISHES A SURVEY, REPORT, PLAT OR PLAN OF REAL PROPERTY WITH THE CONSENT OR AT THE REQUEST OF THE OWNER THEREOF, OR OF HIS OR HER AGENT, CONTRACTOR OR SUBCONTRACTOR, AND ANY TRUST FUND TO WHICH BENEFITS AND WAGE SUPPLEMENTS ARE DUE OR PAYABLE FOR THE BENEFIT OF SUCH LABORERS, SHALL HAVE A LIEN FOR THE PRINCIPAL AND INTEREST, OF THE VALUE, OR THE AGREED PRICE, OF SUCH LABOR OR SURVEY, REPORT, PLAT OR PLAN OF REAL PROPERTY, INCLUDING BENEFITS AND WAGE SUPPLEMENTS DUE OR PAYABLE FOR THE BENEFIT OF ANY LABORER, OR MATERIALS UPON THE REAL PROPERTY SURVEYED, FROM THE TIME OF FILING A NOTICE OF SUCH LIEN AS PRESCRIBED IN THIS CHAPTER. WHERE THE CONTRACT FOR A SURVEY, REPORT, PLAT OR PLAN IS MADE WITH A HUSBAND OR WIFE AND THE PROPERTY BELONGS TO THE OTHER OR BOTH, THE HUSBAND OR WIFE CONTRACTING SHALL ALSO BE PRESUMED TO BE THE AGENT OF THE OTHER, UNLESS SUCH OTHER HAVING KNOWLEDGE OF THE CONTRACT SHALL, WITHIN TEN DAYS AFTER LEARNING OF THE CONTRACT GIVE THE CONTRACTOR WRITTEN NOTICE OF HIS OR HER REFUSAL TO CONSENT TO THE SURVEY, REPORT, PLAT OR PLAN. WITHIN THE MEANING OF THE PROVISIONS OF THIS CHAPTER, MATERIALS ACTUALLY MANUFACTURED FOR BUT NOT DELIVERED TO THE REAL PROPERTY, SHALL ALSO BE DEEMED TO BE MATERIALS FURNISHED.

S 2. This act shall take effect immediately.