



Senate Labor and Industry Committee

Senator John R. Gordner

Chairman

Senate Box 203027, Harrisburg, PA 17120-3027 • (717) 787-8928 • FAX (717) 787-9715

Todd B. Roup, Executive Director • Vonda K. Treaster, Committee Secretary

SENATE LABOR AND INDUSTRY COMMITTEE

Tuesday, April 16, 2013

10:00 am

Room 461 Main Capitol

- 1) Call to Order and Roll Call**
- 2) Senate Bill 145 (Senator Ward)**
 - a. Amendment A00788**
- 3) Senate Bill 297 (Senator Vance)**
 - a. Amendment A000626 (Senator Gordner)**
- 4) Recess**

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 145 Session of 2013

INTRODUCED BY WARD, WAUGH, MENSCH, ERICKSON, ALLOWAY, BAKER,
 FONTANA, EICHELBERGER, BOSCOLA, VULAKOVICH, FARNESE, FERLO,
 SOLOBAY, BRUBAKER AND FOLMER, JANUARY 15, 2013

REFERRED TO LABOR AND INDUSTRY, JANUARY 15, 2013

AN ACT

1 Amending the act of August 24, 1963 (P.L.1175, No.497), entitled
 2 "An act to codify, amend, revise and consolidate the laws
 3 relating to mechanics' liens," providing for the definition
 4 of "costs of construction"; and further providing for right
 5 to lien and amount, for priority of lien and for discharge or
 6 reduction of lien on payment into court or entry of security.

7 The General Assembly of the Commonwealth of Pennsylvania
 8 hereby enacts as follows:

9 Section 1. Section 201 of the act of August 24, 1963
 10 (P.L.1175, No.497), known as the Mechanics' Lien Law of 1963, is
 11 amended by adding a definition to read:

12 Section 201. Definitions.--The following words, terms and
 13 phrases when used in this act shall have the meaning ascribed to
 14 them in this section, except where the context clearly indicates
 15 a different meaning:

16 * * *

17 (15) "Costs of construction" means all costs, expenses and
 18 reimbursements pertaining to erection, construction, alteration,
 19 repair, mandated off-site improvements, government impact fees

1 and soft costs, including, but not limited to, costs, expenses
2 and reimbursements in the nature of taxes, insurance, bonding,
3 inspections, surveys, testing, permits, legal fees, architect
4 fees, engineering fees, consulting fees, accounting fees,
5 management fees, utility fees, tenant improvements, leasing
6 commissions, payment of prior loans or mortgages, mortgage
7 origination fees and commissions, finance costs, closing fees,
8 recording fees, title insurance or escrow fees, or any similar
9 or comparable costs, expenses or reimbursements related to an
10 improvement, made or intended to be made, to the property. For
11 purposes of this definition, reimbursement includes any such
12 disbursements made to the borrower, any person acting for the
13 benefit or on behalf of the borrower, or to an affiliate of the
14 borrower.

15 Section 2. Section 301 of the act is amended to read:

16 Section 301. Right to Lien; Amount; Subcontractor.--[Every]

17 (a) General Rule. Except as provided under subsection (b),
18 every improvement and the estate or title of the owner in the
19 property shall be subject to a lien, to be perfected as herein
20 provided, for the payment of all debts due by the owner to the
21 contractor or by the contractor to any of his subcontractors for
22 labor or materials furnished in the erection or construction, or
23 the alteration or repair of the improvement, provided that the
24 amount of the claim, other than amounts determined by
25 apportionment under section 306(b) of this act, shall exceed
26 five hundred dollars (\$500).

27 (b) Subcontractor. A subcontractor does not have the right
28 to a lien with respect to an improvement to a residential
29 property if:

30 (1) the owner or tenant paid the full contract price to the

1 contractor; and

2 (2) the property is or is intended to be used as the
3 residence of the owner or tenant.

4 Section 3. Section 508(c) of the act, amended June 29, 2006
5 (P.L.210, No.52), is amended to read:

6 Section 508. Priority of Lien.--The lien of a claim filed
7 under this act shall take effect and have priority as follows:

8 * * *

9 (c) Any lien obtained under this act by a contractor or
10 subcontractor shall be subordinate to the following:

11 (1) A purchase money mortgage as defined in 42 Pa.C.S. §
12 8141(1) (relating to time from which liens have priority).

13 (2) An open-end mortgage as defined in 42 Pa.C.S. § 8143(f)
14 (relating to open-end mortgages), [the proceeds of which are
15 used to pay all or part of the cost of completing erection,
16 construction, alteration or repair of the mortgaged premises
17 secured by the open-end mortgage.] where at least twenty-five
18 percent (25%) of the proceeds are intended to pay or are used to
19 pay all or part of the costs of construction.

20 (3) The refinance or modification of a purchase money
21 mortgage as set forth in paragraph (1) or open-end mortgage as
22 set forth in paragraph (2), notwithstanding that:

23 (i) the new principal amount of the mortgage may exceed the
24 stated amount of the original mortgage; or

25 (ii) advances made under the mortgage may be used for
26 purposes unrelated to the costs of construction.

27 Section 4. Section 510 heading of the act is amended and the
28 section is amended by adding a subsection to read:

29 Section 510. Discharge of Lien [on Payment into Court or
30 Entry of Security] or Reduction of Lien.--

1 * * *

2 (f) Residential Property.

3 (1) A claim filed under this act with respect to an
4 improvement to a residential property subject to section 301(b)
5 shall, upon petition or motion to the court by the owner or a
6 party in interest, be discharged as a lien against the property
7 when the owner or tenant has paid the full contract price to the
8 contractor.

9 (2) Where the owner or tenant has paid a sum to the
10 contractor which is less than the sum of the full contract
11 price, a claim filed under this act with respect to an
12 improvement to a residential property subject to section 301(b),
13 shall upon petition or motion to the court by the owner or a
14 party in interest cause the lien to be reduced to the amount of
15 the unpaid contract price owed by the owner or tenant to the
16 contractor.

17 Section 5. The addition of the definition of "costs of
18 construction" in section 201 of the act and the amendment of
19 section 508(c) of the act shall apply to liens perfected on or
20 after the effective date of this section, including liens
21 relating to the construction of an improvement for which the
22 visible commencement of work occurred prior to the effective
23 date of this section, but were not perfected until on or after
24 the effective date of this section.

25 Section 6. This act shall take effect immediately.



Senate Labor and Industry Committee

Senator John R. Gordner

Chairman

Senate Box 203027, Harrisburg, PA 17120-3027 • (717) 787-8928 • FAX (717) 787-9715

Todd B. Roup, Executive Director • Vonda K. Treaster, Committee Secretary

**SENATE BILL 145
PRINTER'S NO. 99**

SPONSOR: Sen. Ward

The legislation amends the Act of August 24, 1963 (P.L. 1175, No 497), known as the Mechanics' Lien Law.

Section 301 of the Act is amended to provide that subcontractors do not have the right to a lien with respect to improvements to residential property if the owner or tenant has paid the full contract price to the prime contractor and intends to reside at the property.

Under Section 508 of the Act, priorities of liens are delineated. The Section is amended to provide that under priority of liens in an open-ended mortgage, at least 25% of the proceeds are intended to pay for all or part of the costs of construction of a residence. Current law requires "all or part" of the proceeds to be used for construction.

Section 510 of the Act is amended to provide that a claim filed shall be discharged when the owner had paid the full contract price to the contractor. If the entire contract price is not paid, the lien shall be reduced in the amount of the unpaid contract price due to the contractor.

Effective immediately.

The Mechanics' Lien Law of 1963 provides a statutory means to secure priority of payment for work performed or for materials purchased in the construction, renovation or repair of buildings. Claims must exceed \$500. Current law provides that contractors or subcontractors may waive lien rights for work performed on residential buildings.

The Committee unanimously reported similar legislation last session. Senate Bill 1495 was not considered by the full Senate prior to the end of session.

Todd B. Roup
February 4, 2013

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO SENATE BILL NO. 145

Sponsor:



Printer's No. 99

- 1 Amend Bill, page 2, line 1, by striking out "soft" and
2 inserting
3 other
- 4 Amend Bill, page 2, line 6, by striking out "loans or" and
5 inserting
6 filed mechanics' liens or
- 7 Amend Bill, page 3, line 2, by striking out "or is intended"
- 8 Amend Bill, page 3, lines 17 and 18, by striking out "twenty-
9 five percent (25%)" and inserting
10 sixty percent (60%)
- 11 Amend Bill, page 3, line 20, by striking out "refinance or"
- 12 Amend Bill, page 3, line 24, by striking out "or"
- 13 Amend Bill, page 3, line 26, by inserting after
14 "construction"
15 ; or
16 (iii) all liens, including mechanics' liens, shall be paid
17 at the time of the modification
- 18 Amend Bill, page 4, line 25, by striking out "immediately"
19 and inserting
20 in 60 days



Senate Labor and Industry Committee

Senator John R. Gordner

Chairman

Senate Box 203027, Harrisburg, PA 17120-3027 • (717) 787-8928 • FAX (717) 787-9715

Todd B. Roup, Executive Director • Vonda K. Treaster, Committee Secretary

**SENATE BILL 145
PRINTERS'S NO. 99**

**AMENDMENT A00788
SPONSOR: Sen. Gordner**

The definition of "Costs of construction" is amended to include payment of prior liens to ensure such liens are settled in the event of a re-financing of the project.

The amendment further requires that at least 60 percent of the proceeds from an open-ended mortgage as defined in Title 42 be used towards the costs of construction.

It is further required that all filed liens, including Mechanics Liens, shall be paid at the time of a mortgage modification.

Todd B. Roup
April 8, 2013

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 297 Session of 2013

INTRODUCED BY VANCE, SCARNATI, PILEGGI, BAKER, VOGEL, TOMLINSON,
TARTAGLIONE, EICHELBERGER, YAW, WASHINGTON, VULAKOVICH,
SOLOBAY, RAFFERTY, D. WHITE, FOLMER, WAUGH AND COSTA,
JANUARY 24, 2013

REFERRED TO LABOR AND INDUSTRY, JANUARY 24, 2013

AN ACT

1 Amending the act of December 5, 1936 (2nd Sp.Sess., 1937
2 P.L.2897, No.1), entitled "An act establishing a system of
3 unemployment compensation to be administered by the
4 Department of Labor and Industry and its existing and newly
5 created agencies with personnel (with certain exceptions)
6 selected on a civil service basis; requiring employers to
7 keep records and make reports, and certain employers to pay
8 contributions based on payrolls to provide moneys for the
9 payment of compensation to certain unemployed persons;
10 providing procedure and administrative details for the
11 determination, payment and collection of such contributions
12 and the payment of such compensation; providing for
13 cooperation with the Federal Government and its agencies;
14 creating certain special funds in the custody of the State
15 Treasurer; and prescribing penalties," providing for
16 ineligibility of State annuitants.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. The act of December 5, 1936 (2nd Sp.Sess., 1937
20 P.L.2897, No.1), known as the Unemployment Compensation Law, is
21 amended by adding a section to read:

22 Section 402.7. Ineligibility of State Annuitants.--An
23 annuitant as defined in 71 Pa.C.S. § 5102 (relating to
24 definitions), shall not be eligible for payment of unemployment

1 compensation benefits when the annuitant voluntarily returns to
2 State service and accepts the terms provided in 71 Pa.C.S. §
3 5706(a.1) (relating to termination of annuities).

4 Section 2. This act shall take effect in 60 days.



Senate Labor and Industry Committee

Senator John R. Gordner

Chairman

Senate Box 203027, Harrisburg, PA 17120-3027 • (717) 787-8928 • FAX (717) 787-9715

Todd B. Roup, Executive Director • Vonda K. Treaster, Committee Secretary

**SENATE BILL 297
PRINTER'S NO. 211**

SPONSOR: Sen. Vance

The legislation amends the Act of December 5, 1936 (2nd Sp. Sess., 1937 P.L. 2897, No. 1), known as the Unemployment Compensation Law, to prohibit certain state annuitants from collecting unemployment compensation following a temporary return to service.

Section 402.7 of the Act is amended to provide that benefits shall not be provided when an annuitant voluntarily returns to state service on a temporary basis.

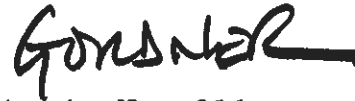
Effective in 60 days.

Todd B. Roup
April 8, 2013

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO SENATE BILL NO. 297

Sponsor:



Printer's No. 211

1 Amend Bill, page 1, lines 1 through 16, by striking out all
2 of said lines and inserting
3 Amending the act of December 5, 1936 (2nd Sp.Sess., 1937
4 P.L.2897, No.1), entitled "An act establishing a system of
5 unemployment compensation to be administered by the
6 Department of Labor and Industry and its existing and newly
7 created agencies with personnel (with certain exceptions)
8 selected on a civil service basis; requiring employers to
9 keep records and make reports, and certain employers to pay
10 contributions based on payrolls to provide moneys for the
11 payment of compensation to certain unemployed persons;
12 providing procedure and administrative details for the
13 determination, payment and collection of such contributions
14 and the payment of such compensation; providing for
15 cooperation with the Federal Government and its agencies;
16 creating certain special funds in the custody of the State
17 Treasurer; and prescribing penalties," further providing for
18 qualifications required to secure compensation and for
19 ineligibility for compensation.

20 Amend Bill, page 1, lines 19 through 24; page 2, lines 1
21 through 4, by striking out all of said lines on said pages and
22 inserting

23 Section 1. Section 401(f) of the act of December 5, 1936
24 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
25 Compensation Law, amended June 12, 2012 (P.L.577, No.60), is
26 amended to read:

27 Section 401. Qualifications Required to Secure
28 Compensation.--Compensation shall be payable to any employe who
29 is or becomes unemployed, and who--
30 * * *

31 (f) Has earned, subsequent to his separation from work under
32 circumstances which are disqualifying under the provisions of
33 subsections 402(b), 402(e), 402(e.1) [and 402(h)], 402(h) and
34 402(k) of this act, remuneration for services in an amount equal
35 to or in excess of six (6) times his weekly benefit rate in

1 "employment" as defined in this act. The provisions of this
2 subsection shall not apply to a suspension of work by an
3 individual pursuant to a leave of absence granted by his last
4 employer, provided such individual has made a reasonable effort
5 to return to work with such employer upon the expiration of his
6 leave of absence.

7 * * *

8 Section 2. Section 402 of the act is amended by adding a
9 subsection to read:

10 Section 402. Ineligibility for Compensation.--An employe
11 shall be ineligible for compensation for any week--

12 * * *

13 (k) In which the employe's unemployment is due to a
14 separation from work initiated by the employe or the employer in
15 order to preserve the employe's existing entitlement to a
16 pension, including a governmental or other pension, retirement
17 or retired pay, annuity or any other similar periodic payments.

18 Section 3. The provisions of this act shall apply to benefit
19 years beginning on or after the effective date of this section.

20 Section 4. This act shall take effect in 60 days.



Senate Labor and Industry Committee

Senator John R. Gordner

Chairman

Senate Box 203027, Harrisburg, PA 17120-3027 • (717) 787-8928 • FAX (717) 787-9715

Todd B. Roup, Executive Director • Vonda K. Treaster, Committee Secretary

**SENATE BILL 297
PRINTER'S NO. 211**

**AMENDMENT A00626
SPONSOR: Sen. Gordner**

The United States Department of Labor has expressed concerns that Senate Bill 297 treats state annuitants in a manner that differs from other claimants, and therefore may be illegal in that eligibility for compensation may not differ for a class of claimants.

Section 402 of the Unemployment Compensation Law is amended to provide that any claimant is ineligible for compensation due to separation from work that is meant to preserve the claimant's pension, annuity or similar periodic payment rights.

Todd B. Roup
April 8, 2013