

Connecticut

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Statutory Outline

TITLE 49. MORTGAGES AND LIENS.

CHAPTER 847. LIENS.

Section 49-32a.	Federal liens.
Section 49-33.	Mechanic's lien. Precedence. Rights of subcontractors.
Section 49-34.	Certificate of lien to be recorded and notice given to owner.
Section 49-35.	Notice of intent. Liens of subcontractors and materialmen.
Section 49-35a.	Application for reduction or discharge. Forms. Hearing. Entry fee.
Section 49-35b.	Burden of proof at hearing. Authority of court.
Section 49-35c.	Appeal.
Section 49-35d.	Validation of lien recorded prior to April 22, 1975.
Section 49-36.	Liens limited; apportionment; payments to original contractor.
Section 49-37.	Dissolution of mechanic's lien by substitution of bond. Joinder of actions on claim and bond.
Section 49-37a.	Lien validated when bond substituted prior to April 22, 1975.
Section 49-38.	Lien on railroad for services or materials in construction.
Section 49-39.	Time limitation of mechanic's lien. Action to foreclose privileged.
Section 49-40.	Record of discharge of mechanic's and judgment liens. [Repealed]
Section 49-40a.	Mechanic's liens expired by limitation of time.
Section 49-40b.	Transferred.
Section 49-41.	Public buildings and public works. Bonds for protection of employees and materialmen. Performance bonds. Limits on use of owner-controlled insurance programs. Certain surety contract provisions.
Section 49-41a.	Enforcement of payment by general contractor to subcontractor and by subcontractor to its subcontractors.
Section 49-41b.	Release of payments on construction projects.
Section 49-41c.	State contractor to make payment to subcontractor within thirty days.
Section 49-42.	Enforcement of right to payment on bond. Suit on bond, procedure and judgment.
Section 49-43.	Certified copies of bonds and contracts for public works.
Sections 49-44 to 49-46.	Recording of judgment lien; when it holds from attachment. Lien only on land liable to execution at date of judgment. Owner of judgment may file lien; foreclosure, limitation of time, notice of lis pendens. [Repealed]
Section 49-46a.	Transferred.
Section 49-47.	Transferred.
Section 49-47a.	Form of mechanic's lien foreclosure certificates.
Section 49-48.	Transferred.
Section 49-49.	When insolvency proceedings set aside lien. [Repealed]

Section 49-50.	Transferred.
Section 49-51.	Discharge of invalid lien.
Section 49-52.	Pendency of action to foreclose lien on personalty not to be notice.
Section 49-53.	Duty of officer serving process in such action. Record by town clerk.
Section 49-54.	Transferred.
Section 49-59.	Discharge of liens. Penalty for failure to discharge.
Section 49-61.	Release of lien on substitution of bond. Lien on motor vehicle or special mobile equipment; notice of intent to sell to commissioner or bailor. Sale.
Section 49-62.	Form of application.
Section 49-63.	Notice of application. Hearing.
Section 49-64.	Form of bond.
Section 49-65.	Dissolution of lien to be recorded.
Section 49-66.	Pleadings may be amended.
Section 49-67.	Limitation of action on bond.
Section 49-86.	Bond in lieu of attachment. Notice of lien.
Section 49-87.	Certificate of dissolution of bond, filing.
Section 49-88.	Duration of lien on real estate. Discharge upon expiration.
Section 49-89.	When judgment lien to date back to notice.
Section 49-90.	Certificate of court clerk upon happening of certain events or lien becoming ineffective.
Section 49-91.	Certificate of plaintiff removing lien upon happening of certain events or lien becoming ineffective.
Section 49-92.	Other lien rights not affected. Compliance with other statutes. [Repealed]
Section 49-92a.	Purchaser's lien. Precedence. Foreclosure. Recording of notice.
Section 49-92b.	Dissolution on substitution of bond. Joinder of actions on claim and bond.
Section 49-92c.	Limitation of lien.
Section 49-92d.	Record of discharge.
Section 49-92e.	Action to claim discharge.
Section 49-92f.	Certificate of removal of lien.

Section 49-32a. Federal liens. (a)(1) Notices of liens upon real property for taxes payable to the United States and notices of liens upon real property for costs and damages payable to the United States, and certificates and notices affecting such liens shall be filed in the office of the clerk of the town in which the real property subject to a federal tax lien or other federal lien is situated. (2) Notices of liens upon personal property, whether tangible or intangible, for taxes payable to the United States and for costs and damages payable to the United States and certificates and notices affecting such liens shall be filed in the office of the Secretary of the State in accordance with subsection (a) of section 42a-9-516.

(b) Certification by the Secretary of the Treasury of the United States or said secretary's delegate of notices of liens, certificates or other notices affecting tax liens or other federal liens entitles them to be filed and no other attestation, certification or acknowledgment is necessary.

(c) (1) If a notice of federal tax lien or other federal lien, a refiling of a notice of tax lien or other federal lien or a notice of revocation of any certificate described in subdivision (2) of this subsection is presented to the filing officer and (A) the filing officer is the Secretary of the State, said secretary shall cause the notice to be marked, held and indexed in accordance with the provisions of section 42a-9-519 as if the notice were a financing statement within the meaning of that section; or (B) the filing officer is a town clerk, such town clerk shall endorse thereon such town clerk's identification and the date and time of receipt and forthwith record it in accordance with section 42a-9-519. (2) If a certificate of release, nonattachment, discharge or subordination of any tax lien or other federal lien is presented to the Secretary of the State for filing, said secretary shall (A) cause a certificate of release or nonattachment to be marked, held and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, and (B) cause a certificate of discharge or subordination to be held, marked and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code. (3) If a refiled notice of federal tax lien or other federal lien referred

to in subdivision (1) of this subsection or any of the certificates or notices referred to in subsection (b) of this section is presented for filing with any other filing officer specified in subsection (a) of this section, such filing officer shall record it in accordance with section 42a-9-519 if the original was recorded or, if the original was filed, permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical federal tax lien index or other federal lien index on the line where the original notice of lien is entered. (4) Upon request of any person, the filing officer shall issue a certificate showing whether there is on file, on the date and hour stated therein, any notice of federal tax lien or other federal lien or certificate or notice affecting the lien, filed on or after July 1, 1967, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for such a certificate and for a copy of any notice of federal tax lien or other federal lien or notice or certificate affecting a federal tax lien or other federal lien shall be computed in accordance with section 42a-9-525.

(d) Except as provided by subsection (a) of section 42a-9-525, the fee for filing and indexing each notice of lien or certificate or notice affecting the tax lien or other federal lien is: (1) For a tax lien or other federal lien on real estate, as provided in section 7-34a; (2) for a tax lien on tangible and intangible personal property, three dollars; (3) for all other notices, including a certificate of release, discharge, subordination or nonattachment, one dollar.

Section 49-33. Mechanic's lien. Precedence. Rights of subcontractors. (a) If any person has a claim for more than ten dollars for materials furnished or services rendered in the construction, raising, removal or repairs of any building or any of its appurtenances or in the improvement of any lot or in the site development or subdivision of any plot of land, and the claim is by virtue of an agreement with or by consent of the owner of the land upon which the building is being erected or has been erected or has been moved, or by consent of the owner of the lot being improved or by consent of the owner of the plot of land being improved or subdivided, or of some person having authority from or rightfully acting for the owner in procuring the labor or materials, the building, with the land on which it stands or the lot or in the event that the materials were furnished or services were rendered in the site development or subdivision of any plot of land, then the plot of land, is subject to the payment of the claim.

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

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

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

(e) A mechanic's lien shall not attach to any such building or its appurtenances or to the land on which the same stands or to any lot or to any plot of land, in favor of any subcontractor to a greater extent in the whole than the amount which the owner has agreed to pay to any person through whom the subcontractor claims subject to the provisions of section 49-36.

(f) Any such subcontractor shall be subrogated to the rights of the person through whom the subcontractor claims, except that the subcontractor shall have a mechanic's lien or right to claim a mechanic's lien in the event of any default by that person subject to the provisions of sections 49-34, 49-35 and 49-36, provided the total of

such lien or liens shall not attach to any building or its appurtenances, or to the land on which the same stands or to any lot or to any plot of land, to a greater amount in the whole than the amount by which the contract price between the owner and the person through whom the subcontractor claims exceeds the reasonable cost, either estimated or actual, as the case may be, of satisfactory completion of the contract plus any damages resulting from such default for which that person might be held liable to the owner and all bona fide payments, as defined in section 49-36, made by the owner before receiving notice of such lien or liens.

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

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

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

Section 49-34. Certificate of lien to be recorded and notice given to owner. A mechanic's lien is not valid unless the person performing the services or furnishing the materials (1) within ninety days after he has ceased to do so, lodges with the town clerk of the town in which the building, lot or plot of land is situated a certificate in writing, which shall be recorded by the town clerk with deeds of land, (A) describing the premises, the amount claimed as a lien thereon, the name or names of the person against whom the lien is being filed and the date of the commencement of the performance of services or furnishing of materials, (B) stating that the amount claimed is justly due, as nearly as the same can be ascertained, and (C) subscribed and sworn to by the claimant, and (2) not later than thirty days after lodging the certificate, serves a true and attested copy of the certificate upon the owner of the building, lot or plot of land in the same manner as is provided for the service of the notice in section 49-35.

Section 49-35. Notice of intent. Liens of subcontractors and materialmen. (a) No person other than the original contractor for the construction, raising, removal or repairing of the building, or the development of any lot, or the site development or subdivision of any plot of land or a subcontractor whose contract with the original contractor is in writing and has been assented to in writing by the other party to the original contract, is entitled to claim any such mechanic's lien, unless, after commencing, and not later than ninety days after ceasing, to furnish materials or render services for such construction, raising, removal or repairing, such person gives written notice to the owner of the building, lot or plot of land and to the original contractor that he or she has furnished or commenced to furnish materials, or rendered or commenced to render services, and intends to claim a lien therefor on the building, lot or plot of land; provided an original contractor shall not be entitled to such notice, unless, not later than fifteen days after commencing the construction, raising, removal or repairing of the building, or the development of any lot, or the site development or subdivision of any plot of land, such original contractor lodges with the town clerk of the town in which the building, lot or plot of land is situated an affidavit in writing, which shall be recorded by the town clerk with deeds of land, (1) stating the name under which such original contractor conducts business, (2) stating the original contractor's business address, and (3) describing the building, lot or plot of land. The right of any person to claim a lien under this section shall not be affected by the failure of such affidavit to conform to the requirements of this section. The notice shall be served upon the owner or original contractor, if such owner or original contractor resides in the same town in which the building is being erected, raised, removed or repaired or the lot is being improved, or the plot of land is being improved or subdivided, by any indifferent person, state marshal or other proper officer, by leaving with such owner or original contractor or at such owner's or the original contractor's usual place of abode a true and attested copy thereof. If the owner or original contractor does not reside in such town, but has a known agent therein, the notice may be so served upon the agent, otherwise it may be served by any indifferent person, state marshal or other proper officer, by mailing a true and attested copy of the notice by registered or certified mail to the owner or original contractor at the place where such owner or the original contractor resides. If such copy

is returned unclaimed, notice to such owner or original contractor shall be given by publication in accordance with the provisions of section 1-2. When there are two or more owners, or two or more original contractors, the notice shall be so served on each owner and on each original contractor. The notice, with the return of the person who served it endorsed thereon, shall be returned to the original maker of the notice not later than thirty days after the filing of the certificate pursuant to section 49-34.

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

Section 49-35a. Application for reduction or discharge. Forms. Hearing. Entry fee. (a) Whenever one or more mechanics' liens are placed upon any real estate pursuant to sections 49-33, 49-34, 49-35 and 49-38, the owner of the real estate, if no action to foreclose the lien is then pending before any court, may make application, together with a proposed order and summons, to the superior court for the judicial district in which the lien may be foreclosed under the provisions of section 51-345, or to any judge thereof, that a hearing or hearings be held to determine whether the lien or liens should be discharged or reduced. The court or judge shall thereupon order reasonable notice of the application to be given to the lienor or lienors named therein and, if the application is not made by all owners of the real estate as may appear of record, shall order reasonable notice of the application to be given to all other such owners, and shall set a date or dates for the hearing or hearings to be held thereon. If the lienor or lienors or any owner entitled to notice is not a resident of this state, the notice shall be given by personal service, registered or certified mail, publication or such other method as the court or judge shall direct. At least four days' notice shall be given to the lienor, lienors or owners entitled to notice prior to the date of the hearing.

(b) The application, order and summons shall be substantially in the following form:

APPLICATION FOR DISCHARGE OR REDUCTION OF MECHANIC'S LIEN

To the Court of

The undersigned represents:

1. That is the owner of the real estate described in Schedule A attached hereto.
2. That the names and addresses of all other owners of record of such real estate are as follows:
3. That on or about, (date), (name of lienor) of (address of lienor) placed a mechanic's lien on such real estate and gave notice thereof.
4. That there is not probable cause to sustain the validity of such lien (or: That such lien is excessive).
5. That the applicant seeks an order for discharge (or reduction) of such lien.

Name of Applicant

By

Applicant's Attorney

ORDER

The above application having been presented to the court, it is hereby ordered, that a hearing be held thereon at a.m. and that the applicant give notice to the following persons: (Names and addresses of persons entitled to notice) of the pendency of said application and of the time when it will be heard by causing a true and attested copy of the application, and of this order to be served upon such persons by some proper officer or indifferent person on or before and that due return of such notice be made to this court.

Dated at this day of 20...

SUMMONS

To a state marshal of the county of, or either constable of the town of, in said county,
Greeting:

By authority of the state of Connecticut, you are hereby commanded to serve a true and attested copy of the above application and order upon, of by leaving the same in such person's hands or at such person's usual place of abode (or such other notice as ordered by the court) on or before

Hereof fail not but due service and return make.

Dated at this day of 20...

....

Commissioner of the Superior Court

(1) If the clerk, upon receipt of all the documents in duplicate, finds them to be in proper form, the clerk shall fix a date for a hearing on the application and sign the order of hearing and notice. An entry fee of twenty dollars shall then be collected and a copy of the original document shall be placed in the court file.

(2) The clerk shall deliver to the applicant's attorney the original of the documents for service. Service having been made, the original documents shall be returned to the court with the endorsement by the officer of such officer's actions.

(c) If an action for foreclosure of the lien is pending before any court, any party to that action may at any time prior to trial, unless an application under subsection (a) of this section has previously been ruled upon, move that the lien be discharged or reduced.

(d) No more than one application under subsection (a) hereof or motion under subsection (c) hereof shall be ruled upon with respect to any single mechanic's lien, except that the foregoing shall not preclude an application or motion by a person not given notice of the prior application or not a party to the action at the time the prior motion was ruled upon.

Section 49-35b. Burden of proof at hearing. Authority of court. (a) Upon the hearing held on the application or motion set forth in section 49-35a, the lienor shall first be required to establish that there is probable cause to sustain the validity of his lien. Any person entitled to notice under section 49-35a may appear, be heard and prove by clear and convincing evidence that the validity of the lien should not be sustained or the amount of the lien claimed is excessive and should be reduced.

(b) Upon consideration of the facts before it, the court or judge may: (1) Deny the application or motion if probable cause to sustain the validity of the lien is established; or (2) order the lien discharged if (A) probable cause to sustain its validity is not established, or (B) by clear and convincing evidence its invalidity is established; or (3) reduce the amount of the lien if the amount is found to be excessive by clear and convincing evidence; or (4) order the lien discharged or reduce the amount of the lien conditioned upon the posting of a bond, with surety, in a sum deemed sufficient by the judge to indemnify the lienor for any damage which may occur by the discharge or the reduction of amount.

Section 49-35c. Appeal. (a) Any order entered as provided in subsection (b) of section 49-35b shall be deemed a final judgment for the purpose of appeal.

(b) No appeal may be taken from the order except within seven days thereof. The effect of the order shall be automatically stayed for the seven-day period. If an appeal is taken within the seven-day period, the party taking the appeal may, within that period, file an application with the clerk of the court in which the order was issued, requesting a stay of the effect of the order pending the appeal, which application shall set forth the reasons for the request. A copy of the application shall be sent to each other party by the applicant. Upon the filing of the application, the effect of the order shall be further stayed until a decision is rendered thereon. A hearing on the application shall be held promptly. The order shall be stayed if the party taking the appeal posts a bond, as provided in subsection (c) of this section.

(c) Upon the hearing on the application, the court shall: (1) Upon motion of the party taking the appeal, set a bond with surety for the stay of the order as provided in subsection (b) of this section, in an amount which the court deems sufficient to indemnify the adverse party for any damages which may result from the stay. If the party taking the appeal gives that bond the order shall be stayed; or (2) grant the stay; or (3) deny the stay; or (4) condition the granting of the stay upon the giving of such a bond.

(d) Any order of discharge or reduction or any order of any such stay shall take effect upon recording of a certified copy thereof in the office of the town clerk in which such lien was originally recorded. The clerk of the

court in which any such order is issued shall not deliver any certified copies thereof until the time for taking an appeal has elapsed or, if an appeal is taken and an application for a stay of the order is filed, until such time as a decision granting or denying the stay has been rendered.

Section 49-35d. Validation of lien recorded prior to April 22, 1975. (a) Any person who prior to April 22, 1975, placed a mechanic's lien upon any real estate pursuant to sections 49-33, 49-34, 49-35 and 49-38, which was not released or discharged on such date, may validate such lien by filing a new certificate of mechanic's lien and serving a true and attested copy thereof pursuant to the provisions of section 49-34, and, if applicable, by serving the notice required by section 49-35, within ninety days from June 25, 1975, and such mechanic's lien shall be deemed to have originated as of the effective date of the original mechanic's lien so validated, provided, such validation shall not affect the interest of any person acquiring an interest in such real estate as an owner or mortgagee from April 22, 1975, through June 25, 1975, inclusive. Such validation shall not affect the interest of any person to whom such validation would be in violation of the Constitution of the United States or the Constitution of the state of Connecticut, but in such event such lien shall have no less validity than if the lienor had commenced the rendering of services or the furnishing of materials on June 25, 1975. Any such lien not validated pursuant to this section shall be invalid and discharged as a matter of law.

(b) Any person who would have been entitled under the terms of sections 49-33, 49-34, 49-35 and 49-38, to claim a mechanic's lien between April 22, 1975, and June 25, 1975, inclusive, but had not done so, may file a certificate of such lien and serve a true and attested copy thereof as required by section 49-34 and, if applicable, serve the notice required by section 49-35, within the time provided by section 49-34, or within ninety days of June 25, 1975, whichever period is longer. For purposes of determining when such person's mechanic's lien took effect, such person shall be deemed to have commenced the rendering of services or the furnishing of materials as of June 25, 1975, but for purposes of determining the amount of such lien such person shall be deemed to have commenced the rendering of services or the furnishing of materials as of the actual date of such commencement.

(c) Any person who between April 22, 1975 and June 25, 1975, inclusive, placed a mechanic's lien upon any real estate pursuant to sections 49-33, 49-34 and 49-38, which was not released or discharged on June 25, 1975, may file a new certificate of such lien and serve a true and attested copy thereof pursuant to the provisions of section 49-34, and, if applicable, may serve the notice required by section 49-35, within ninety days of June 25, 1975. For purposes of determining when such person's mechanic's lien took effect, such person shall be deemed to have commenced the rendering of services or the furnishing of materials as of June 25, 1975, but for purposes of determining the amount of such lien such person shall be deemed to have commenced the rendering of services or the furnishing of materials as of the actual date of such commencement.

Section 49-36. Liens limited; apportionment; payments to original contractor. (a) No mechanic's lien may attach to any building or its appurtenances, or to the land on which the same stands, or any lot, or any plot of land, in favor of any person, to a greater amount in the whole than the price which the owner agreed to pay for the building and its appurtenances or the development of any such lot, or the development of any such plot of land.

(b) When there are several claimants and the amount of their united claims exceeds that price, the claimants, other than the original contractor, shall be first paid in full, if the amount of that price is sufficient for that purpose; but, if not, it shall be apportioned among the claimants having the liens, other than the original contractor, in proportion to the amount of the debts due them respectively; and the court having jurisdiction thereof, on application of any person interested, may direct the manner in which the claims shall be paid.

(c) In determining the amount to which any lien or liens may attach upon any land or building, or lot or plot of land, the owner of the land or building or lot or plot of land shall be allowed whatever payments he has made, in good faith, to the original contractor or contractors, before receiving notice of the lien or liens. No payments made in advance of the time stipulated in the original contract may be considered as made in good faith, unless notice of intention to make the payment has been given in writing to each person known to have furnished materials or rendered services at least five days before the payment is made.

Section 49-37. Dissolution of mechanic's lien by substitution of bond. Joinder of actions on claim and bond. (a)

Whenever any mechanic's lien has been placed upon any real estate pursuant to sections 49-33, 49-34 and 49-35, the owner of that real estate, or any person interested in it, may make an application to any judge of the Superior Court that the lien be dissolved upon the substitution of a bond with surety, and the judge shall order reasonable notice to be given to the lienor of the application. If the lienor is not a resident of the state, the judge may order notice to be given by publication, registered or certified letter or personal service. If the judge is satisfied that the applicant in good faith intends to contest the lien, he shall, if the applicant offers a bond, with sufficient surety, conditioned to pay to the lienor or his assigns such amount as a court of competent jurisdiction may adjudge to have been secured by the lien, with interest and costs, order the lien to be dissolved and such bond substituted for the lien and shall return the application, notice, order and bond to the clerk of the superior court for the judicial district wherein the lien is recorded; and, if the applicant, within ten days from such return, causes a copy of the order, certified by the clerk, to be recorded in the town clerk's office where the lien is recorded, the lien shall be dissolved. Whenever a bond is substituted for any lien after an action for the foreclosure of a lien has been commenced, the plaintiff in the foreclosure may amend his complaint, without costs, so as to make the action one upon the bond with which the plaintiff may join an action to recover upon his claim. Whenever a bond is substituted for any lien before an action for the foreclosure of the lien has been commenced, the plaintiff may join the action upon the bond with an action to recover upon his claim. Whenever a bond has been substituted for any lien, pursuant to this section, unless an action is brought to recover upon the bond within one year from the date of recording the certificate of lien, the bond shall be void.

(b) Whenever a bond has been substituted for any lien pursuant to this section:

(1) The principal or surety on the bond, if no action to recover on the bond is then pending before any court, may make application, together with a proposed order and summons, to the superior court for the judicial district in which the action may be brought, or to any judge of the court, that a hearing be held to determine whether the lien for which the bond was substituted should be declared invalid or reduced in amount. The court or judge shall thereupon order reasonable notice of the application to be given to the obligee on the bond and, if the application is not made by all principals or sureties on the bond, shall order reasonable notice of the application to be given to all other such principals and sureties, and shall set a date for the hearing to be held thereon. If the obligee or any principal or surety entitled to notice is not a resident of this state, the notice shall be given by personal service, registered or certified mail, publication or such other method as the court or judge shall direct. At least four days notice shall be given to the obligee, principal and surety entitled to notice prior to the date of the hearing.

(2) The application, order and summons shall be substantially in the form established by subsection (b) of section 49-35a, adapted accordingly. The provisions of subdivisions (1) and (2) of subsection (b) of section 49-35a, shall apply.

(3) If an action on the bond is pending before any court, any party to that action may at any time prior to trial, unless an application under subdivision (1) of this subsection has previously been ruled upon, move that the lien for which the bond was substituted be declared invalid or reduced in amount.

(4) No more than one application or motion under subdivision (1) or (3) of this subsection may be ruled upon with respect to any single mechanic's lien, except that the foregoing does not preclude an application or motion by a person not given notice of the prior application or not a party to the action at the time the prior motion was ruled upon. Nothing in this subdivision shall be construed as permitting a surety on a bond to bring an application for discharge or reduction, if the validity of the lien has previously been ruled upon pursuant to section 49-35a.

(5) Upon the hearing held on the application or motion set forth in this subsection, the obligee on the bond shall first be required to establish that there is probable cause to sustain the validity of the lien. Any person entitled to notice under subdivision (1) of this section may appear, be heard and prove by clear and convincing evidence that the validity of the lien should not be sustained or that the amount of the lien claimed is excessive and should be reduced. Upon consideration of the facts before it, the court or judge may: (A) Deny the application or motion if probable cause to sustain the validity of the lien is established; or (B) order that the bond is void if (i) probable cause to sustain the validity of the lien is not established, or (ii) by clear and convincing evidence, the invalidity of the lien is established; or (C) order the amount of the bond reduced if the amount of the lien is found to be excessive by clear and convincing evidence.

(6) Any order entered upon an application set forth in subdivision (1) of this subsection shall be deemed a final judgment for the purpose of appeal.

Section 49-37a. Lien validated when bond substituted prior to April 22, 1975. Whenever prior to April 22, 1975, a bond has been substituted for any lien pursuant to section 49-37, which bond was in effect on said date, the obligee on such bond may validate the lien for which the bond was substituted by serving, by registered or certified mail, upon the principal and surety on such bond a copy of the certificate of mechanic's lien which was originally filed, within ninety days of June 25, 1975. Any such lien not validated pursuant to this section shall be deemed to have been invalid and discharged as a matter of law.

Section 49-38. Lien on railroad for services or materials in construction. If any person has a claim for materials furnished or services rendered for the construction of any railroad, or any of its appurtenances, under any contract with or approved by the corporation owning or managing it, the railroad shall, with its real estate, right-of-way, material, equipment, rolling stock and franchises, be subject to the payment of that claim; and that claim shall be a lien on the railroad, railroad property and franchises, and the lien shall be asserted, perfected and foreclosed in all respects in accordance with the provisions of sections 49-34 to 49-37, inclusive, except that the certificates of the lien and of its discharge shall be filed in the office of the Secretary of the State, who shall record them in a book kept for that purpose.

Section 49-39. Time limitation of mechanic's lien. Action to foreclose privileged. A mechanic's lien shall not continue in force for a longer period than one year after the lien has been perfected, unless the party claiming the lien commences an action to foreclose it, by complaint, cross-complaint or counterclaim, and records a notice of lis pendens in evidence thereof on the land records of the town in which the lien is recorded within one year from the date the lien was recorded or within sixty days of any final disposition of an application made pursuant to section 49-35a, including any appeal taken with respect thereto in accordance with section 49-35c, whichever is later. Each such lien, after the expiration of the one-year period or sixty-day period, as the case may be, without action commenced and notice thereof filed as aforesaid, shall be invalid and discharged as a matter of law. An action to foreclose a mechanic's lien shall be privileged in respect to assignment for trial. With respect to any such lien which was validated in accordance with the provisions of section 49-37a, the one-year period or sixty-day period, as the case may be, shall toll from the date of the validation.

Section 49-40. Record of discharge of mechanic's and judgment liens. Section 49-40 is repealed.

Section 49-40a. Mechanic's liens expired by limitation of time. Any mechanic's lien which has expired because of failure to comply with the time limitations of section 49-39 is automatically extinguished and the continued existence of the lien unreleased of record in no way affects the record owner's title nor the marketability of the same.

Section 49-40b. Transferred to Chapter 906, Sec. 52-380c.

Section 49-41. Public buildings and public works. Bonds for protection of employees and materialmen. Performance bonds. Limits on use of owner-controlled insurance programs. Certain surety contract provisions. (a) Each contract exceeding one hundred thousand dollars in amount for the construction, alteration or repair of any public building or public work of the state or a municipality shall include a provision that the person to perform the contract shall furnish to the state or municipality on or before the award date, a bond in the amount of the contract which shall be binding upon the award of the contract to that person, with a surety or sureties satisfactory to the officer awarding the contract, for the protection of persons supplying labor or materials in the prosecution of the work provided for in the contract for the use of each such person, provided no such bond shall be required to be furnished (1) in relation to any general bid in which the total estimated cost of labor and materials under the contract with respect to which such general bid is submitted is less than one hundred thousand dollars, (2) in relation to any sub-bid in which the total estimated cost of labor and materials under the contract with respect to which such sub-bid is submitted is less than one hundred thousand dollars, or

(3) in relation to any general bid or sub-bid submitted by a consultant, as defined in section 4b-55. Any such bond furnished shall have as principal the name of the person awarded the contract.

(b) Nothing in this section or sections 49-41a to 49-43, inclusive, shall be construed to limit the authority of any contracting officer to require a performance bond or other security in addition to the bond referred to in subsection (a) of this section, except that no such officer shall require a performance bond in relation to any general bid in which the total estimated cost of labor and materials under the contract with respect to which such general bid is submitted is less than twenty-five thousand dollars or in relation to any sub-bid in which the total estimated cost of labor and materials under the contract with respect to which such sub-bid is submitted is less than fifty thousand dollars.

(c) No contract for the construction, alteration or repair of any public building or public work of the state or a municipality that requires a person to supply the state or municipality with a bond may include a provision that requires the person to obtain the bond from a specific surety, agent, broker or producer. No contracting officer may require that a bond be obtained from a specific surety, agent, broker or producer.

(d) In the event that any political subdivision of the state enters into a contract described in subsection (a) of this section and fails to obtain delivery from the contractor of the bond required by this section, any person who has not been paid by the contractor for labor or materials supplied in the performance of work under the contract shall have the same legal right of action against such political subdivision of the state as such person would have had against a surety under the provisions of section 49-42. Nothing in this section shall be construed to extend liability to the state for any person's right to payment or constitute a waiver of the state's sovereign immunity.

(e) (1) As used in this subsection, "owner-controlled insurance program" means an insurance procurement program under which a principal provides and consolidates insurance coverage for one or more contractors on one or more construction projects.

(2) No contract for the construction, alteration or repair of any public building or public work of the state or a municipality may include a provision that allows or requires the state or municipality to maintain an owner-controlled insurance program, except for (A) a project approved pursuant to section 10a-109e, or (B) one or more municipal projects totaling one hundred million dollars or more (i) under the supervision of one construction manager, or (ii) located within the boundaries of a municipality if under the supervision of more than one construction manager.

(3) Each contract or policy of insurance issued under an owner-controlled insurance program pursuant to this subsection shall provide that:

(A) Coverage for work performed and materials furnished shall continue from the completion of the work until the date all causes of action are barred under any applicable statute of limitations.

(B) Any notice of a change in coverage under the contract or policy or of a cancellation or refusal to renew the coverage under the contract or policy shall be provided to the principal and all contractors covered under the program.

(C) The effective date of a (i) change in coverage under the contract or policy shall be at least thirty days after the date the principal and contractors receive the notice of change in coverage as required under subparagraph (B) of this subdivision, and (ii) cancellation or refusal to renew shall be at least sixty days after the principal and contractors receive the notice of change in coverage as required under subparagraph (B) of this subdivision.

(4) Each principal or contractor shall disclose in the project plans or specifications at the time the principal or contractor is soliciting bids for the construction project that the project will be covered by an owner-controlled insurance program.

(f) Whenever a surety bond is required in connection with a contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state or a municipality, that is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, the surety contract between the contractor named as principal in the bond and the surety that issues such bond shall contain the following provision: "In the event that the surety assumes the contract or obtains a bid or bids for completion of the contract, the surety shall ensure that the contractor chosen to complete the contract is prequalified pursuant to section 4a-100 of the Connecticut general statutes in the requisite classification and has the aggregate work capacity rating and single project limit necessary to complete the contract".

Section 49-41a. Enforcement of payment by general contractor to subcontractor and by subcontractor to its subcontractors. (a) When any public work is awarded by a contract for which a payment bond is required by section 49-41, the contract for the public work shall contain the following provisions: (1) A requirement that the general contractor, within thirty days after payment to the contractor by the state or a municipality, pay any amounts due any subcontractor, whether for labor performed or materials furnished, when the labor or materials have been included in a requisition submitted by the contractor and paid by the state or a municipality; (2) a requirement that the general contractor shall include in each of its subcontracts a provision requiring each subcontractor to pay any amounts due any of its subcontractors, whether for labor performed or materials furnished, within thirty days after such subcontractor receives a payment from the general contractor which encompasses labor or materials furnished by such subcontractor.

(b) Each payment requisition submitted in accordance with the requirements of subsection (a) of this section, except for any such payment requisition submitted pursuant to a contract administered by or in conjunction with the Department of Transportation, shall include a statement showing the status of all pending construction change orders, other pending change directives and approved changes to the original contract or subcontract. Such statement shall identify the pending construction change orders and other pending change directives, and shall include the date such change orders and directives were initiated, the costs associated with their performance and a description of any work completed. As used in this section, "pending construction change order" or "other pending change directive" means an authorized directive for extra work that has been issued to a contractor or a subcontractor.

(c) If payment is not made by the general contractor or any of its subcontractors in accordance with such requirements, the subcontractor shall set forth his claim against the general contractor and the subcontractor of a subcontractor shall set forth its claim against the subcontractor through notice by registered or certified mail. Ten days after the receipt of that notice, the general contractor shall be liable to its subcontractor, and the subcontractor shall be liable to its subcontractor, for interest on the amount due and owing at the rate of one per cent per month. In addition, the general contractor, upon written demand of its subcontractor, or the subcontractor, upon written demand of its subcontractor, shall be required to place funds in the amount of the claim, plus interest of one per cent, in an interest-bearing escrow account in a bank in this state, provided the general contractor or subcontractor may refuse to place the funds in escrow on the grounds that the subcontractor has not substantially performed the work according to the terms of his or its employment. In the event that such general contractor or subcontractor refuses to place such funds in escrow, and the party making a claim against it under this section is found to have substantially performed its work in accordance with the terms of its employment in any arbitration or litigation to determine the validity of such claim, then such general contractor or subcontractor shall pay the attorney's fees of such party.

(d) No payment may be withheld from a subcontractor for work performed because of a dispute between the general contractor and another contractor or subcontractor.

(e) This section shall not be construed to prohibit progress payments prior to final payment of the contract and is applicable to all subcontractors for material or labor whether they have contracted directly with the general contractor or with some other subcontractor on the work.

Section 49-41b. Release of payments on construction projects. When any public work is awarded by a contract for which a payment bond is required by section 49-41 and such contract contains a provision requiring the general or prime contractor under such contract to furnish a performance bond in the full amount of the contract price, the following shall apply:

(1) In the case of a contract advertised by the Department of Administrative Services or any other state agency, except as specified in subdivision (2) of this section, (A) the awarding authority shall not withhold more than seven and one-half per cent from any periodic or final payment which is otherwise properly due to the general or prime contractor under the terms of such contract, provided, when fifty per cent of the contract is completed, said amount shall be reduced to five per cent, and (B) any such general or prime contractor shall not withhold from any subcontractor more than (i) seven and one-half per cent from any periodic or final payment which is otherwise due to the subcontractor, or (ii) the amount withheld by the awarding authority from such general or prime contractor under subparagraph (A) of this subdivision, whichever is less, provided, when fifty per cent of the contract is completed, said amount shall be reduced to five per cent. Payment shall be made not

later than ninety days after a complete application for payment demonstrating that fifty per cent contract completion has been submitted to the awarding authority. Notwithstanding the provisions of this subdivision (1), the awarding authority shall establish an early release program with respect to periodic payments by general or prime contractors to subcontractors.

(2) In the case of a contract advertised by the state Department of Transportation, (A) the department shall not withhold more than two and one-half per cent from any periodic or final payment which is otherwise properly due to the general or prime contractor under the terms of such contract, and (B) any such general or prime contractor shall not withhold more than two and one-half per cent from any periodic or final payment which is otherwise due to any subcontractor.

(3) If the awarding authority is a municipality, (A) the municipality shall not withhold more than five per cent from any periodic or final payment which is otherwise properly due to the general or prime contractor under the terms of such contract, and (B) any such general or prime contractor shall not withhold more than five per cent from any periodic or final payment which is otherwise due to any subcontractor.

Section 49-41c. State contractor to make payment to subcontractor within thirty days. Any person contracting with the state shall make payment to any subcontractor employed by such contractor within thirty days of payment by the state to the contractor for any work performed or, in the case of any contract entered into on or after October 1, 1986, for materials furnished by such subcontractor, provided such contractor may withhold such payment if such contractor has a bona fide reason for such withholding and if such contractor notifies the affected subcontractor, in writing, of his reasons for withholding such payment and provides the state board, commission, department, office, institution, council or other agency through which such contractor had made the contract, with a copy of the notice, within such thirty-day period.

Section 49-42. Enforcement of right to payment on bond. Suit on bond, procedure and judgment. (a)(1) Any person who performed work or supplied materials for which a requisition was submitted to, or for which an estimate was prepared by, the awarding authority and who does not receive full payment for such work or materials within sixty days of the applicable payment date provided for in subsection (a) of section 49-41a, or any person who supplied materials or performed subcontracting work not included on a requisition or estimate who has not received full payment for such materials or work within sixty days after the date such materials were supplied or such work was performed, may enforce such person's right to payment under the bond by serving a notice of claim on the surety that issued the bond and a copy of such notice to the contractor named as principal in the bond not later than one hundred eighty days after the last date any such materials were supplied or any such work was performed by the claimant. For the payment of retainage, as defined in section 42-158j, such notice shall be served not later than one hundred eighty days after the applicable payment date provided for in subsection (a) of section 49-41a. The notice of claim shall state with substantial accuracy the amount claimed and the name of the party for whom the work was performed or to whom the materials were supplied, and shall provide a detailed description of the bonded project for which the work or materials were provided. If the content of a notice prepared in accordance with subsection (c) of section 49-41a complies with the requirements of this section, a copy of such notice, served not later than one hundred eighty days after the date provided for in this section upon the surety that issued the bond and upon the contractor named as principal in the bond, shall satisfy the notice requirements of this section. Not later than ninety days after service of the notice of claim, the surety shall make payment under the bond and satisfy the claim, or any portion of the claim which is not subject to a good faith dispute, and shall serve a notice on the claimant denying liability for any unpaid portion of the claim. The surety's failure to discharge its obligations under this section shall not be deemed to constitute a waiver of defenses the surety or its principal on the bond may have or acquire as to the claim, except as to undisputed amounts for which the surety and claimant have reached agreement. If, however, the surety fails to discharge its obligations under this section, then the surety shall indemnify the claimant for the reasonable attorneys' fees and costs the claimant incurs thereafter to recover any sums found due and owing to the claimant. The notices required under this section shall be served by registered or certified mail, postage prepaid in envelopes addressed to any office at which the surety, principal or claimant conducts business, or in any manner in which civil process may be served.

(2) If the surety denies liability on the claim, or any portion thereof, the claimant may bring an action upon the payment bond in the Superior Court for such sums and prosecute the action to final execution and judgment. An action to recover on a payment bond under this section shall be privileged with respect to assignment for trial. The court shall not consolidate for trial any action brought under this section with any other action brought on the same bond unless the court finds that a substantial portion of the evidence to be adduced, other than the fact that the claims sought to be consolidated arise under the same general contract, is common to such actions and that consolidation will not result in excessive delays to any claimant whose action was instituted at a time significantly prior to the filing of the motion to consolidate. In any such proceeding, the court judgment shall award the prevailing party the costs for bringing such proceeding and allow interest at the rate of interest specified in the labor or materials contract under which the claim arises or, if no such interest rate is specified, at the rate of interest as provided in section 37-3a upon the amount recovered, computed from the date of service of the notice of claim, provided, for any portion of the claim which the court finds was due and payable after the date of service of the notice of claim, such interest shall be computed from the date such portion became due and payable. The court judgment may award reasonable attorneys' fees to either party if upon reviewing the entire record, it appears that either the original claim, the surety's denial of liability, or the defense interposed to the claim is without substantial basis in fact or law. Any person having direct contractual relationship with a subcontractor but no contractual relationship express or implied with the contractor furnishing the payment bond shall have a right of action upon the payment bond upon giving written notice of claim as provided in this section.

(b) Every suit instituted under this section shall be brought in the name of the person suing, in the superior court for the judicial district where the contract was to be performed, irrespective of the amount in controversy in the suit, but no such suit may be commenced after the expiration of one year after the last date that materials were supplied or any work was performed by the claimant, except that any such suit solely seeking payment for retainage, as defined in section 42-158i, shall be commenced not later than one year after the date payment of such retainage was due, pursuant to the provisions of subsection (a) of section 49-41a.

(c) The word "material" as used in sections 49-33 to 49-43, inclusive, shall include construction equipment and machinery that is rented or leased for use (1) in the prosecution of work provided for in the contract within the meaning of sections 49-33 to 49-43, inclusive, or (2) in the construction, raising or removal of any building or improvement of any lot or in the site development or subdivision of any plot of land within the meaning of sections 49-33 to 49-39, inclusive.

Section 49-43. Certified copies of bonds and contracts for public works. Each agency of the state or of any subdivision thereof, in charge of the construction, alteration or repair of any public building or public work of the state or of any subdivision thereof, shall furnish, to any person making application therefor who submits an affidavit that he has supplied labor or materials for the work and payment therefor has not been made or that he is being sued on the bond, a copy of the bond and the contract for which it was given, certified by the administrative head of the agency, which copy shall be prima facie evidence of the contents, execution and delivery of the original. Applicants shall pay for those certified copies such fees as are provided in section 1-212.

Sections 49-44 to 49-46. Recording of judgment lien; when it holds from attachment. Lien only on land liable to execution at date of judgment. Owner of judgment may file lien; foreclosure, limitation of time, notice of lis pendens. Sections 49-44 to 49-46, inclusive, are repealed.

Section 49-46a. Transferred to Chapter 906, Sec. 52-380d.

Section 49-47. Transferred to Chapter 906, Sec. 52-380h.

Section 49-47a. Form of mechanic's lien foreclosure certificates. Certificates of foreclosure of mechanic's liens shall be, as far as possible, of the same form as is prescribed for certificates of foreclosure of mortgages.

Section 49-48. Transferred to Chapter 906, Sec. 52-380i.

Section 49-49. When insolvency proceedings set aside lien. Section 49-49 is repealed.

Section 49-50. Transferred to Chapter 906, Sec. 52-380f.

Section 49-51. Discharge of invalid lien. (a) Any person having an interest in any real or personal property described in any certificate of lien, which lien is invalid but not discharged of record, may give written notice to the lienor sent to him at his last-known address by registered mail or by certified mail, postage prepaid, return receipt requested, to discharge the lien. Upon receipt of such notice, the lienor shall discharge the lien by sending a release sufficient under section 52-380d, by first class mail, postage prepaid, to the person requesting the discharge. If the lien is not discharged within thirty days of the notice, that person may apply to the Superior Court for such a discharge, and the court may adjudge the validity or invalidity of the lien and may award the plaintiff damages for the failure of the defendant to make discharge upon request. If the court is of the opinion that such certificate of lien was filed without just cause, it may allow, in its discretion, damages to any person aggrieved by such failure to discharge, at the rate of one hundred dollars for each week after the expiration of such thirty days, but not exceeding in the whole the sum of five thousand dollars or an amount equal to the loss sustained by such aggrieved person as a result of such failure to discharge the lien, which loss shall include, but not be limited to, a reasonable attorney's fee, whichever is greater.

(b) When a lien on real property is adjudged invalid or is otherwise discharged by the court, a certified copy of the judgment of invalidity or discharge recorded on the land records of the town where the certificate of lien was filed fully discharges the lien. If such a discharged or invalid lien is a lien filed on personal property pursuant to section 52-355a, a release of lien in the form prescribed by subsection (c) of section 52-380d, certified to by a clerk of the Superior Court, with reference to and the date of the court order of discharge or invalidity, fully discharges the lien on filing with the Secretary of the State.

Section 49-52. Pendency of action to foreclose lien on personalty not to be notice. The pendency of an action for the foreclosure of any lien, other than a chattel mortgage, upon any personal estate is not notice of that action to any person who acquires an interest in that estate during the pendency of the action, unless the officer serving the process and complaint in the action leaves a true and attested copy of the process and complaint at the office of the town clerk of the town in which the lien is recorded at least twelve days before the return day of the process. A judgment or decree of foreclosure obtained in that action, upon any process and complaint of which a copy is not so left at the town clerk's office, does not affect the rights of any person acquiring an interest in the estate during the pendency of the action.

Section 49-53. Duty of officer serving process in such action. Record by town clerk. (a) The officer serving the process and complaint in an action for the foreclosure of any lien, other than a chattel mortgage, upon any personal estate shall leave a true and attested copy of the process and complaint at the town clerk's office at least twelve days before the return day of the process, for which he shall be allowed the same fees as for other copies, and the fees shall be taxed with the other fees in the cause.

(b) The town clerk at whose office any such copy is left shall keep the same on file for the inspection of all persons having any interest in the estate therein described. The town clerk shall endorse on all such copies the date of their reception, and shall plainly number them as they are received, consecutively. He shall also keep a book in which he shall index the copies, referring to their numbers, under the plaintiff's name as grantee and the defendant's name as grantor.

Section 49-54. Transferred to Chapter 906, Sec. 52-380b.

Section 49-59. Discharge of liens. Penalty for failure to discharge. Each person who has lodged for record a certificate claiming a lien on any property, under the provisions of this chapter, shall, after receiving satisfaction of his claim or after the rendition of a final judgment against him showing that nothing is due thereon, within ten days after being requested in writing to do so by any person interested in having the lien removed, sign and lodge, in the office in which his original certificate was filed for record, a certificate that such lien is removed, which, when recorded, shall discharge such lien. If he fails to comply with such request, he shall pay to the party

aggrieved such sum, not exceeding half the amount claimed by his lien, as the court having cognizance of the action brought therefor may determine.

Section 49-61. Release of lien on substitution of bond. Lien on motor vehicle or special mobile equipment; notice of intent to sell to commissioner or bailor. Sale. (a) The owner of any personal property which is held by one who claims to be a bailee for hire of that personal property and to have a lien in consequence thereof, or anyone having a legal or equitable interest in that property, may apply in writing to any judge of the Superior Court, within whose jurisdiction that personal property is held or the lienor resides, to dissolve the lien upon the substitution of a bond with surety.

(b) If the property is a motor vehicle and if no application that the lien be dissolved upon such substitution of a bond is made within thirty days of the date of the completion of the work upon the property by the bailor for hire, the bailee shall immediately send a written notice of intent to sell to the Commissioner of Motor Vehicles, stating the vehicle identification number thereof, the date the motor vehicle was left with such bailee, the date the work was completed, the amount for which a lien is claimed, the registration thereof if any number plates are on the motor vehicle and the name of the owner or person who authorized the work to be done, and shall enclose a fee of ten dollars. Such notice shall be placed on file by the commissioner and be open to public inspection. Upon approval by the commissioner of such notice, the commissioner shall issue the bailee an affidavit of compliance and such bailee shall provide such affidavit to the purchaser at the time of sale. Except for the thirty-day period immediately following completion of the work on such motor vehicle, the commissioner may limit the number of days that a bailee may charge for the storage of the motor vehicle prior to the time that the bailee files such notice with the commissioner unless the bailee provides evidence to the commissioner sufficient to show that the storage charges accrued as a result of the bailee's reliance upon statements or representations made by the bailor or as the result of the bailee's good faith efforts to negotiate the return of such motor vehicle to the bailor. If the motor vehicle is subject to a security interest, the commissioner, within ten days of receipt of such notice, shall send the bailee the name and address of any lienholder as recorded on the certificate of title. Within ten days of receipt of such information relative to any lienholder, the bailee shall mail written notice to each lienholder by certified mail, return receipt requested, stating that the motor vehicle is being held by such bailee and has a lien upon it for repair and storage charges. Any sale under the provisions of this section shall be void unless the notice required in this section has been given to said commissioner, if the property is a motor vehicle.

(c) If the property is special mobile equipment, as defined in section 14-165, and if no application that the lien be dissolved upon such substitution of a bond is made within thirty days of the date of the completion of the work upon the property by the bailor for hire, the bailee shall immediately send a written notice to the bailor by certified mail, return receipt requested, stating the identification number of such equipment, the date the special mobile equipment was left with such bailee, the date the work was completed, the amount for which a lien is claimed and the name of the owner or person who authorized the work to be done. Additionally, the bailee shall conduct a search for lienholders under article 9 of title 42a. If the special mobile equipment is subject to a security interest, the bailee shall mail written notice to each lienholder by certified mail, return receipt requested, stating that the special mobile equipment is being held by such bailee and has a lien upon it for repair and storage charges. Any sale under the provisions of this section shall be void unless the notice required in this section has been given, if the property is special mobile equipment.

(d) If no application for such dissolution of the lien has been made by the bailor for hire within three months from the date of completion of the work upon the property, or if the property has not been replevied, the bailee may sell the property at public auction for cash at his place of business and apply the proceeds of the sale, first toward the payment of the debt or obligation owing to him and second toward the payment of any balance due on any conditional bill of sale held on the property.

(e) The sale shall be advertised, in a newspaper published or having a circulation in the town where the bailee's place of business is situated, three times, commencing at least ten days before the sale and, if the last usual place of abode of the bailor is known to or may reasonably be ascertained by the bailee, notice of the time and place of sale shall be given by mailing the notice to him by certified mail, return receipt requested, at least ten days before the time of the sale, and similar notice shall be given to any officer who has placed an attachment

on the property and, if the property is a motor vehicle or special mobile equipment, as defined in section 14-165, any lienholder.

(f) The proceeds of such sale, after the payment of the amount owing to the bailee and all expense connected with the sale and of any balance due on any conditional bill of sale, shall be paid to any officer who has placed an attachment on the property and be held by that officer in the same manner as though such moneys had been originally attached. If there has been no attachment, the balance shall be paid to the owner of the property or his legal representatives, if called for or claimed by him or them at any time within one year from the date of the sale, and, if the balance is not claimed or called for as aforesaid within said period, it shall escheat to the state.

Section 49-62. Form of application. The application described in Section 49-61 may be in the following form:

“To, a Judge of the Superior Court for the judicial district of

The application of C.D. of the Town (or City) of, in the County of, and judicial district of, shows that he is the owner (or sets forth other legal or equitable interest) of the following personal property, viz.:

Such personal property is now held by A.B. of the Town (or City) of, in the County of, and judicial district of under a claim of lien for storage of such personal property, (or for care, cartage, freight, work and material, etc., as the case may be), and that he is desirous that such lien be dissolved upon the substitution of a bond, with surety, according to the statute.

Dated at the day of, 20...

C.D. (or C.D. by X, his attorney).”

Section 49-63. Notice of application. Hearing. No such lien may be dissolved until reasonable notice of the application, in writing, signed by the applicant or his attorney, has been served upon the lienor or left at his usual place of abode or such other reasonable notice as the judge may order has been given. Any person interested may be heard in relation to the amount and sufficiency of the bond offered by the applicant. The bond shall be in amount not less than the amount claimed by the lienor, unless it appears to the authority to whom the application is made that the amount so claimed is excessive, in which event he may order the bond to be in such amount as he deems reasonable.

Section 49-64. Form of bond. Such bond shall be taken to the lienor, and shall be substantially in the following form:

“Know all men by these presents:

That we, C. D. of, as principal, and of, as surety, are holden and firmly bound, jointly and severally, unto A. B. of, in the penal sum of dollars, to which payment well and truly to be made, we hereby bind ourselves, our heirs, executors and administrators, firmly by these presents.

The Condition of this obligation is such that whereas certain personal property, viz.:, in which said C. D. has an interest as owner (or otherwise, as the case may be) is now held by said A. B. under claim of lien for storage (or otherwise, as the case may be) to the amount of dollars:

Now, Therefore, if said C. D. shall pay or cause to be paid any judgment that may be rendered against him by any court of competent jurisdiction not exceeding the amount of dollars (the amount claimed under the lien), with interest and costs, or in default of such payment shall pay or cause to be paid to the officer having the execution issued on such judgment, on demand, the actual value at the date hereof of such personal property, not exempt from such lien, not exceeding said amount of dollars, then this bond shall be void, but otherwise in full force and effect.

Dated at this day of, 20...

.... Seal.

.... Seal.”

Section 49-65. Dissolution of lien to be recorded. The authority dissolving the lien shall certify such dissolution upon the application, and forthwith return the application, notice, order and bond to the clerk of the superior court for the judicial district wherein such personal property is held under such lien, or wherein such lienor resides.

Section 49-66. Pleadings may be amended. In any case in which a bond is substituted for a lien after an action for the collection of the lienor's charges has been commenced, the plaintiff in such action may amend his pleadings, without costs, so as to make the action one upon such bond.

Section 49-67. Limitation of action on bond. Any bond substituted for a lien under the provisions of sections 49-61 to 49-66, inclusive, shall be void unless an action is brought to recover thereon within one year from the date of such bond.

Section 49-86. Bond in lieu of attachment. Notice of lien. Whenever a bond has been accepted in lieu of an attachment or in lieu of a previously accepted or ordered attachment bond, a notice of lien in favor of the attaching creditor and against the surety on the bond may be filed in the office of the town clerk of the town in which the real estate of the surety is situated, which notice of lien shall describe the land of the surety with reasonable certainty, and shall specify the date, amount and condition of the bond and the names of all parties, plaintiff and defendant, the court to which the action is returnable and the return day, in the action for which the bond is given. Such notice of lien, from the time of filing, shall constitute a lien upon the real estate described in such notice. Whenever a court or judge has power to order a bond in lieu of attachment, such court or judge may order a bond in lieu of a previously ordered or accepted attachment bond.

Section 49-87. Certificate of dissolution of bond, filing. Upon dissolution of the surety bond, the surety may file with the town clerk where the real estate is situated a certificate of such dissolution signed by the plaintiff of record or by his attorney of record or by the authority making the attachment for which the bond was substituted.

Section 49-88. Duration of lien on real estate. Discharge upon expiration. A lien on real estate arising under the provisions of section 49-86 shall not continue in force as a lien for a longer period than fifteen years after the date thereof unless within said period an action on the bond in connection with which the notice of lien was filed has been prosecuted to effect and a judgment lien against the surety filed according to law. All liens on real estate which have expired under the provisions of this section shall be deemed dissolved and the real estate shall be free from any lien or encumbrance by reason of the same and the town clerk of the town in which the real estate is situated shall, upon the request of any person interested, discharge such lien of record by recording a discharge of lien in the land records.

Section 49-89. When judgment lien to date back to notice. If a judgment lien is placed upon real estate described in a notice of lien filed pursuant to the provisions of section 49-86 within four months after the judgment was rendered against the surety, it shall hold from the date of the notice of lien, provided the action on the bond was commenced within one year from the date of judgment in the action in connection with which the bond was substituted, and provided further the judgment lien contains a clause referring to and identifying the notice of lien.

Section 49-90. Certificate of court clerk upon happening of certain events or lien becoming ineffective. If any lien arising under the provisions of section 49-86 has been made and the plaintiff has withdrawn his suit or has been nonsuited or final judgment has been rendered against him, or if such suit has not been returned, or if for any reason such lien has become of no effect, the clerk of the court to which such suit has been made returnable shall, upon the request of any person interested, issue a certificate in accordance with the facts, which certificate may be filed in the office of the town clerk, and such town clerk shall record such certificate in the land records.

Section 49-91. Certificate of plaintiff removing lien upon happening of certain events or lien becoming ineffective. In any proceeding wherein a lien has been filed pursuant to the provisions of section 49-86, if the plaintiff therein has received satisfaction for his claim, or final judgment has been rendered against him thereon, or when for any reason the lien has become of no effect, the plaintiff or his attorney, at the request of any person interested in the estate liened or in having the lien removed, shall file a certificate with the town clerk that the lien is removed. Each such certificate shall be recorded by the town clerk in the land records of the town wherein the property affected by the release is located or wherein the notice of lien was filed.

Section 49-92. Other lien rights not affected. Compliance with other statutes. Section 49-92 is repealed.

Section 49-92a. Purchaser's lien. Precedence. Foreclosure. Recording of notice. (a) A purchaser's lien is created for the amount of the deposit paid pursuant to and stated in a contract for the conveyance of land by the recording of such contract, or a notice thereof, in the records of the town in which the land is situated, provided the contract, or notice thereof, is executed by the owner and by the vendee of the land, witnessed and acknowledged in the same manner as required for a deed for the conveyance of land and describes the particular land to which it refers. Such purchaser's lien shall be prior to any other liens and encumbrances originating after the contract, or notice thereof, is recorded. A purchaser's lien may be foreclosed in the same manner as a mortgage. Transfer of title of the land to the vendee constitutes a release and discharge of the lien. (b) Any notice recorded pursuant to this section shall, in addition to the requirements set forth in subsection (a) of this section, include (1) the address of the owner and the vendee, (2) the date provided in the contract for the performance of such contract or, if such date is not provided in such contract, the date on which such contract was executed, and (3) the amount of the deposit paid pursuant to the contract. Nothing in this subsection shall be construed to affect the validity of any purchaser's lien created before October 1, 2004.

Section 49-92b. Dissolution on substitution of bond. Joinder of actions on claim and bond. (a) Whenever any purchaser's lien has been placed upon any real estate pursuant to section 49-92a, the owner of the real estate, or any person interested in the real estate, may make an application to any judge of the Superior Court that the lien be dissolved upon the substitution of a bond with surety, and the judge shall order reasonable notice to be given to the lienor of the application. If the lienor is not a resident of the state, the judge may order notice to be given by publication, registered or certified mail or personal service.

(b) If the judge is satisfied that the applicant in good faith intends to contest the lien, he shall, if the applicant offers a bond, with sufficient surety, conditioned to pay to the lienor or his assigns such amount as the judge may adjudge to have been secured by the lien, with interest and costs, order the lien to be dissolved and the bond substituted therefor and shall return the application, notice, order and bond to the clerk of the superior court for the judicial district wherein the lien is recorded. If the applicant, within ten days from the return, causes a copy of the order, certified by the clerk, to be recorded in the town clerk's office where the lien is recorded, the lien shall be dissolved.

(c) Whenever a bond is substituted for any lien after an action for the foreclosure of a lien has been commenced, the plaintiff in that foreclosure may amend his complaint, without costs, so as to make the action one upon the bond with which the plaintiff may join an action to recover upon his claim.

(d) Whenever a bond is substituted for any lien before an action for the foreclosure of the lien has been commenced, the plaintiff may join the action upon the bond with an action to recover upon his claim.

(e) Whenever a bond has been substituted for any lien, pursuant to this section, unless an action is brought to recover upon such bond within two years from the date of recording the certificate of lien, such bond shall be void.

Section 49-92c. Limitation of lien. No purchaser's lien shall continue in force for a longer period than two years after such lien has been perfected, unless the party claiming such lien, within said period, commences an action to foreclose the same and proceeds therewith to final judgment. Each such lien, after the expiration of two years without action commenced, shall be discharged of record by the person claiming the same, upon the request of the owner of the property upon which the lien has been claimed.

Section 49-92d. Record of discharge. The town clerk of the town in which the purchaser's lien is filed shall, upon request of any person having an interest in the real estate covered by that lien, discharge such lien and, if applicable, the lis pendens or notice of foreclosure, by recording in the land records a discharge of lien and, if applicable, a discharge of lis pendens or notice of foreclosure, provided the purchaser's lien has expired by a provision of the statute of limitations, and (1) no lis pendens or notice of foreclosure of the lien has been filed with that town clerk, or (2) if a lis pendens or notice of foreclosure has been so filed or recorded and a certificate, issued by the clerk of the court to which the notice referred after the return day of the foreclosure action, indicating that no such foreclosure action remains pending and that no judgment has been entered in the action in that court, has been filed for record with the town clerk.

Section 49-92e. Action to claim discharge. Any person having an interest in any real estate described in any recorded contract of sale, or notice thereof, creating a purchaser's lien which is invalid but not discharged of record may give written notice to the lienor to discharge the lien in the office where recorded. If the request is not complied with in ten days, such person may bring his complaint to the court which would have jurisdiction of the foreclosure of the lien, if valid, claiming such discharge of the lien, and the court may adjudge the validity or invalidity of the lien and may award the plaintiff damages for the failure of the defendant to make discharge upon request. A certified copy of the judgment of invalidity, recorded in the land records of the town where such certificate of lien was filed, fully discharges the lien.

Section 49-92f. Certificate of removal of lien. Each person who has lodged for record a contract of sale, or notice thereof, claiming a lien on any property under the provisions of sections 49-92a to 49-92f, inclusive, shall, after receiving satisfaction of his claim or after the rendition of a final judgment against him showing that nothing is due thereon, within ten days after being requested in writing to do so by any person interested in having the lien removed, sign and lodge, in the office in which his original contract of sale, or notice thereof, was filed for record, a certificate that such lien is removed, which, when recorded, shall discharge such lien. If he fails to comply with such request, he shall pay to the party aggrieved such sum, not exceeding half the amount claimed by his lien, as the court having cognizance of the action brought therefor may determine.

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