



Vermont

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Statutory Outline

TITLE 9. COMMERCE AND TRADE.

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CHAPTER 51. MISCELLANEOUS LIENS.

§1921. Extent of lien; notice.

- (a) When a contract or agreement is made, whether in writing or not, for erecting, repairing, moving or altering improvements to real property or for furnishing labor or material therefor, the person proceeding in pursuance of such contract or agreement shall have a lien upon such improvements and the lot of land on which the same stand to secure the payment of the same.
- (b) A person who by virtue of a contract or agreement, either in writing or parol, with an agent, contractor, or subcontractor of the owner thereof, performs labor or furnishes materials for erecting, repairing, moving, or altering such improvements shall have a lien, to secure the

payment of the same upon such improvements and the lot of land upon which the same stand, by giving notice in writing to such owner or his or her agent having charge of such property that he or she shall claim a lien for labor or material. The notice shall include the date that payment is due, if known. Such lien shall extend to the portions of the contract price remaining unpaid at the time such notice is received.

(c) A lien herein provided for shall not continue in force for more than 180 days from the time when payment became due for the last of such labor performed or materials furnished unless a notice of such lien is filed in the office of the town clerk as hereinafter provided.

(d) A lien under this section shall not take precedence over a deed or other conveyance to the extent that consideration therefor has been paid in good faith before record of such lien. Such lien shall not take precedence over a mortgage given by the owner thereof upon such building, property or improvements and the lot of land on which the same stand, as security for the payment of money loaned and to be used by such owner in payment of the expenses of the same, if such mortgage is recorded before such lien is filed in the office of the town clerk as hereinafter provided. If such mortgagee shall receive written notice that any lien hereunder is to be claimed, such lien shall take precedence over such mortgage as to all advances thereafter made under such mortgage to such mortgagor, except such advances as the mortgagee may show were actually expended in completing such improvements to real property.

(e) The lot of land covered by such lien shall be deemed to be all of the land owned or held by the owner and used or designed for use in connection with such improvements, but such lien shall not extend to other adjacent lands used for purposes of profit.

(f) A lien under this section may not be waived in advance of the time such labor is performed or materials are furnished, and any provision calling for such advance waiver shall not be enforceable.

§1922. Effect of lien.

Unless a person has satisfied or paid the claim upon which such lien is founded after the person has received written notice of a lien as provided for in subsection 1921(b) of this title, or unless the lien has not been perfected within the time required under section 1924 of this title, such person shall not deed, mortgage, or otherwise convey property which is subject to a lien as provided herein without disclosing such lien to the vendee or mortgagee in writing or stating the existence of the same in the instrument conveying or mortgaging such property. If the person shall fail so to disclose such lien, he or she shall be liable to the person injured in a civil action on this statute for the damages so sustained.

§1923. Recording notice of lien.

A person claiming a lien under section 1921 of this title, shall file for record in the clerk's office of the town where such real estate is situated, a written memorandum, signed by him or her, asserting his or her claim, which shall charge such real estate with such lien as of the visible commencement of work or delivery of material to the extent and subject to the exceptions provided in sections 1921 and 1922 of this title. Several such liens, asserted as aforesaid, shall be paid pro rata, if the sum due or to become due from the owner thereof is not sufficient to pay the same in full.

§1924. Action to enforce lien.

Within 180 days from the time of filing such memorandum, if such payment is due at the time of such filing and within 180 days from the time such payment becomes due, if not due at the time of such filing, such person may commence his or her action for the same and cause such real

estate or other property to be attached thereon. If he or she obtains judgment in the action, the record of such judgment shall contain a brief statement of the contract upon which the same is founded.

§1925. Foreclosure.

Within five months after the date of such judgment, the plaintiff may cause a certified copy of the record thereof to be recorded in the office of the clerk of the town in which such real estate or other property is situated. Thereupon the same shall be holden for the amount due upon such judgment, with the costs of such copy and recording the same, as if it had been mortgaged for the payment thereof, from the time of the visible commencement of work or delivery of materials, subject, however, to the priorities provided in section 1921 of this title, and the plaintiff may obtain possession and foreclose the defendant's equity of redemption as in case of a mortgage.

§1926. Death of landowner; effect on lien.

When the owner of real estate dies after a lien has been recorded, or dies pending an action brought against him or her to enforce a lien on such real estate, the action or lien shall not abate or be affected by the death of such owner, but the executor or administrator of the deceased shall be cited in and the action shall proceed to final judgment against the representative of the deceased defendant. Such real estate shall be holden for the amount due upon such judgment, with the cost of the copy of the record of the judgment and recording, as if it had been mortgaged for the payment of the same, in like manner as if the deceased defendant were alive. Such lien shall not be enforced to the diminution of a right or interest given by law to the surviving husband or wife, as the case may be, or to the children of such deceased person.

§1927. Application to homestead.

The provisions of this subchapter shall apply to property held as a homestead.

§1928. Married woman's property.

Under the provisions of this subchapter, the real estate of a married woman may be charged with a mechanic's lien when she assents to the contract.

CHAPTER 102. CONSTRUCTION CONTRACTS.

§4003. Contractor's and subcontractor's payment obligations

(a) Performance by a subcontractor in accordance with the provisions of its contract shall entitle it to payment from the party with which it contracts.

(b) Notwithstanding any contrary agreement, a contractor or subcontractor shall disclose to a subcontractor, before a subcontract is entered, the due date for receipt of payments from the owner. Notwithstanding any other provision of this chapter, if a contractor or subcontractor fails to accurately disclose the due date to a subcontractor, the contractor or subcontractor shall be obligated to pay the subcontractor as though the 20-day due dates in subsection 4002(c) of this title were met by the owner.

(c) Notwithstanding any contrary agreement, when a subcontractor has performed in accordance with the provisions of its contract, a contractor shall pay to the subcontractor, and each subcontractor shall in turn pay to its subcontractors, the full or proportional amount received for each such subcontractor's work and materials based on work completed or service

provided under the subcontract, seven days after receipt of each progress or final payment or seven days after receipt of the subcontractor's invoice, whichever is later.

(d) Notwithstanding any contrary agreement, if any progress or final payment to a subcontractor is delayed beyond the due date established in subsections (b) or (c) of this section, the contractor or subcontractor shall pay its subcontractor interest, beginning on the next day, at an interest rate equal to that established by 12 V.S.A. § 2903(b), on such unpaid balance as may be due.

TITLE 12. COURT PROCEDURE.

CHAPTER 113. JUDGMENT LIEN.

§2903. Duration and effectiveness

(a) A judgment lien shall be effective for eight years from the issuance of a final judgment on which it is based except that an action to foreclose the judgment lien during the eight-year period shall extend the period until the termination of the foreclosure suit if a copy of the complaint is filed in the land records on or before eight years from the issuance of the final judgment.

(b) A judgment which is renewed or revived pursuant to section 506 of this title shall constitute a lien on real property for eight years from the issuance of the renewed or revived judgment if recorded in accordance with this chapter. The renewed or revived judgment shall relate back to the date on which the original lien was first recorded if a copy of the complaint to renew the judgment was recorded in the land records where the property lies within eight years after the rendition of the judgment, and the renewed or revived judgment is subsequently recorded in accordance with this chapter.

(c) Interest on a judgment lien shall accrue at the rate of 12 percent per annum.

(d) If a judgment lien is not satisfied within 30 days of recording, it may be foreclosed and redeemed as provided in this title and V.R.C.P. 80.1. Unless the court finds that as of the date of foreclosure the amount of the outstanding debt exceeds the value of the real property being foreclosed, section 4531 of this title shall apply to foreclosure of a judgment lien.

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