

HOUSE No. 1419

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to mechanic's liens..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1 Section 4 of chapter 254 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by inserting before the word “Such” in line 28, the following
3 sentence: — “Prior to filing the notice of any contract in the registry of deeds as described in this
4 section, a subcontractor must produce an affidavit, signed under the pains and penalties of
5 perjury, from the general contractor describing the costs owed to the subcontractor and stating
6 that the owner has not paid the general contractor for the labor or material, or both labor and
7 material, or furnishing of rental equipment, appliances or tools, supplied by said subcontractor.”.

8 SECTION 2 Section 4 of chapter 254 of the General Laws, as appearing in the 2006
9 Official Edition, is hereby amended by inserting after the word “contract” in line 29, the
10 following words: — “and procurement of the affidavit from the general contractor”.

11 SECTION 3 Section 4 of chapter 254 of the General Laws, as appearing in the 2006
12 Official Edition, is hereby amended by inserting after the word “owner” in line 57, the following
13 words: — “and shall not include lawyer’s fees, late penalties, late fees or other costs not directly
14 related to the labor or material, or both labor and material, or furnishing of rental equipment,

15 appliances or tools, supplied by said subcontractor in the contract. Upon request of the owner,
16 said subcontractor shall also furnish to the owner an itemized listing of costs associated with the
17 subcontract and lien, including but not limited to bills of sale, receipts or other relevant
18 supporting documentation ”.

19 SECTION 4 Section 11 of chapter 254 of the General Laws, as appearing in the 2006
20 Official Edition, is hereby amended by adding the following sentence: — “The court may order a
21 subcontractor to pay the owner’s attorney’s fees and costs if evidence of a lack of due diligence
22 in conforming with the affidavit requirements of section 4 of this chapter exists or if the court
23 determines the lien was otherwise improperly asserted.”