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TITLE XXV.  
MECHANICS' LIENS.

CHAPTER 1.

MECHANICS' LIENS.

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Within what  
limits build-  
ings subject  
to certain  
debts.

An Act securing to mechanics and others, payment for their labour and materials in erecting any house or other building, within the limits therein mentioned.

Revision.....Approved April 15, 1846.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That all and every dwelling-house, or other building, hereafter constructed and erected within the counties of Hunterdon, Somerset, Monmouth, Salem, Cumberland, Mercer, excepting the township of East Windsor, the townships of Paterson, Manchester, and Aquackanonck, in the county of Passaic, the corporation of Jersey City and the townships of Van Vorst and Bergen, in the county of Hudson, the township of Chesterfield, the city of Burlington, and the town of Mount Holly, and within the circuit of one mile from the court-house in said town, in the county of Burlington, shall be subject to the payment of the debts contracted for, or by the reason of any work done, or materials found and provided by any brickmaker, bricklayer, stonecutter, mason, lime merchant, carpenter, painter and glazier, ironmonger, blacksmith, plasterer, and lumber merchant, or any other person or persons employed, or furnishing materials for or in the erecting and constructing such house or other building; but if such house or other building should not sell for a sum of money sufficient to pay all the demands for work and materials, over and above any prior claim on mortgage or judgment against any land owner, on the land on which said building or buildings may be erected, and prior to the erection of said building or buildings, then, and in such case, the same shall be averaged, and each of the creditors paid a sum proportioned to their several demands; *provided always*, that no such debt for work and materials shall remain a lien on the said houses or other buildings longer than two years from the commencement of the building thereof, unless the claim be filed within six months

When debts  
to be ave-  
raged.

How long a  
lien, unless  
filed, and suit  
commenced.

after performing the work or furnishing the materials, in the office of the clerk of the court of common pleas of the county where such building may be erected, as the case may be, and an action for the recovery of the same be instituted within one year after such work done or materials found; and all claims for work done and materials furnished, shall be filed within six months from the time that the materials were furnished and the work done, or be for ever barred and excluded from the provisions and benefits of this act; *and provided also*, that each and every person having received satisfaction for his or their debt, for which a claim shall be filed as aforesaid, or action brought as aforesaid, shall thereupon execute a release and discharge for the same, expressing therein the date of the entry of said lien in the clerk's office of the county where such building is erected, and the amount thereof, and acknowledge the same before a judge of the court of common pleas of the county where the same may be filed, which shall be sufficient authority for the clerk to enter satisfaction of the same, upon payment of costs.

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When barred, if claim not filed.

When release to be executed

and acknowledged.

2. *And be it enacted*, That in all cases of lien created by this act, the person having a claim filed agreeably to the provisions hereof, may, at his election, proceed to recover it by personal action, according to the nature of the demand, against the debtor, his executors or administrators, or by scire facias against the debtor and owner or owners of the building, or their executors or administrators; and where the proceeding is by scire facias, the writ shall be served in like manner as a summons, upon the person or persons named therein, if they can be found within any of the said counties where such building is erected, or are resident therein, or if they cannot be found, or are not resident in either of said counties, by fixing a copy of the writ on the door of the building against which the claim is filed; and upon the return of service and failure of the defendant or defendants to appear, the court shall render judgment, as in other cases upon writs of scire facias; but if they, or either of them, appear, such person or persons may plead and make defence, and the like proceedings be had as in personal actions for the recovery of debts; and upon judgment being rendered thereupon, execution shall issue against the building or buildings and land upon which the same is erected, subject to all prior claims as aforesaid.

Modes of proceeding to recover claim.

3. *And be it enacted*, That whenever any master workman shall refuse to pay any journeyman or labourer, employed by him in the erecting or constructing any house or other building, his wages, it shall be the duty of such journeyman or labourer to give notice, in writing, to the owner or owners of such house or other building of

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such refusal, and the amount due him or them, and so demanded; and the said owner or owners shall thereupon be authorized to retain the amount so due and claimed by any such journeyman and labourer, out of the amount due by him or them to such master workman, and give notice to such master workman of such notice and demand, and if not liquidated and paid by such master workman, such owner or owners, on being satisfied of the correctness of such demand, shall pay the same; and the receipt of such journeyman and labourer for the same, shall be a sufficient offset in the settlement of the accounts between the owner or owners of any house or other building and such master workman.

What the claim shall designate.

4. *And be it enacted*, That every claim to be filed as aforesaid, shall particularly designate the building for which the work therein to be mentioned was done, or the materials therein to be mentioned were found; *and provided always*, that the provisions of this law shall not extend to include repairs done by any tenant, on property rented by him, without the written consent of the owner thereof, that the same may be brought within the provisions of this act.

Repairs.

Payment according to contract shall discharge lien.

5. *And be it enacted*, That whenever, within the limits before named, any building shall be erected by contract, then and in such case, payment according to such contract by the owner or owners of the building to the contractor or contractors, shall fully and entirely discharge such building from all lien for work done and materials furnished; *provided*, the said contract be in writing and filed, as aforesaid, within sixty days after the same shall have been made and executed.

Proviso.

Extended to mills and manufactories in Mercer.

6. *And be it enacted*, That the lien given by this act is hereby declared to extend to all mills and manufactories of every description within the county of Mercer, for all debts contracted by the owner or owners thereof, or by any other person, with his, her, or their consent in writing, for machinery or fixtures furnished for said mill or manufactory, or work done and materials furnished for or about the erecting, constructing, or repairing machinery in the same.

7. *And be it enacted*, That this act shall be deemed and taken as a public act.