

HOUSE No. 229.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 26, 1873.

The Committee on the Judiciary, to whom was referred the Bill in relation to recording attachments and other liens upon real estate, report that the bill ought to pass in a new draft, herewith submitted.

For the Committee,

GEO. P. SANGER.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Seventy-Three.

AN ACT

In relation to Attachments and other Liens upon
Real Estate.

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

1 SECT. 1. No writ of entry, petition for parti-
2 tion, or other proceeding affecting the title to real
3 estate, shall affect persons other than the parties
4 thereto, their heirs and devisees, and persons having
5 actual notice thereof, until a copy of the writ or
6 other original process, certified by the officer serv-
7 ing the same, shall be recorded in the registry of
8 deeds for the county or district in which the real
9 estate affected by such proceeding lies, or until a
10 copy of the final judgment in such proceeding
11 shall be recorded in such registry.

1 SECT. 2. No lien for labor performed in or
2 materials furnished for the erection, alteration or
3 repair of any building or structure upon real estate
4 shall, as against any person other than the owner

5 of such building or structure at the time when
6 such labor or materials are performed or furnished,
7 his heirs and devisees, and persons having actual
8 notice that the lien is claimed, be valid to cover a
9 claim for labor performed or materials furnished
10 more than six months prior to the filing and record-
11 ing in the registry of deeds for the county or dis-
12 trict in which such building or structure is situated,
13 of a statement, subscribed and sworn to by the party
14 claiming the lien, or by some one in his behalf, and
15 giving in general terms the amount and value of
16 the labor and materials for which the lien is
17 claimed, or is intended to be claimed, together with
18 a description of the property intended to be cov-
19 ered by the lien, sufficiently accurate for identifi-
20 cation, and also the names of the parties in whom
21 the record-title to such property at the time of
22 filing and recording such statement stands; but
23 any error in naming such parties shall not exempt
24 from the effect of the lien any person claiming
25 under a party named.

1 SECT. 3. Any person having an interest in
2 real estate upon which a lien has been claimed,
3 pursuant to the preceding section, may, at any
4 time before final judgment in a suit brought to
5 enforce such lien, release his interest in such estate
6 or in any portion thereof from such lien, by giving
7 bond to the party claiming the lien, with sufficient
8 sureties to be approved in writing by such party
9 or his attorney, or by a master in chancery, and
10 with condition to pay to such party within thirty
11 days after final judgment in such suit, a sum fixed
12 as the value of the estate or interest so released,

13 or as much of such sum as may be necessary to
14 satisfy any amount for which such estate or inter-
15 est may be found to be subject to such lien in such
16 suit. If the parties interested do not agree as to
17 the value of the estate or interest to be released,
18 such value may be fixed in the same manner as is
19 provided in the two hundred and ninety-first
20 chapter of the acts of eighteen hundred and
21 seventy, for fixing the value of property released
22 from attachment. The bond provided for in this
23 section shall contain a description of the estate
24 released from the lien, and may be filed and
25 recorded in the registry of deeds for the county
26 or district in which such estate lies.

1 SECT. 4. When any attachment or other lien
2 has been originally created by the filing and re-
3 cording of a copy of a writ or other paper in a
4 registry of deeds, the party claiming such lien
5 may release the same by a written discharge,
6 signed by him or by his attorney, and filed and
7 recorded in the same registry, and certificates of
8 clerks of courts to the effect that their records or
9 dockets show such attachments or liens to have
10 been dissolved may also be filed and recorded in
11 such registry.

1 SECT. 5. Registers of deeds and clerks of
2 courts shall perform the same duties with regard
3 to the filing and recording of copies of writs
4 and other papers in suits originating in the courts
5 of the United States and affecting the title to real
6 estate by attachment or otherwise, that they are
7 now or may hereafter be authorized or empowered

8 to perform with regard to the filing and recording
9 of such papers in such suits originating in the
10 courts of this Commonwealth.

1 SECT. 6. In the county of Suffolk no attach-
2 ment of real estate, or of any interest therein, shall
3 be valid until the officer serving the writ or other
4 process shall file a copy thereof, with so much of
5 his return thereon as relates to the attachment, in
6 the registry of deeds for said county. Such copy
7 shall be filed by the officer before the return day
8 of such writ or other process, and in his return he
9 shall state the fact that the copy has been so filed.
10 A copy of a writ filed pursuant to this section
11 need not contain the declaration:

1 SECT. 7. In said county when an attachment
2 is made of real estate, or of any interest therein,
3 which has been fraudulently conveyed by the
4 debtor to a third person, or which has been pur-
5 chased, or the purchase-money of which has been
6 directly or indirectly paid by the debtor and the
7 title thereto retained in the vendor or conveyed to
8 another person with the design and for the pur-
9 pose of fraudulently securing the same from at-
10 tachment by a creditor of such debtor, or with the
11 intent and for the purpose of delaying, defeating
12 or defrauding creditors, it shall not be valid against
13 any party claiming in good faith under the person
14 or persons in which the record-title stands, unless
15 the officer shall file with the copy of the writ or
16 other process required by the preceding section, a
17 statement containing a description of the estate
18 attached, sufficiently accurate for identification,

19 and the names of the persons in whom the record-
20 title to such estate stands.

1 SECT. 8. In said county no levy of an execu-
2 tion upon real estate, or upon any interest therein,
3 when an attachment upon mesne process has not
4 been previously made and a copy of the writ and
5 return duly filed according to law, shall constitute
6 a valid lien on such real estate as against any per-
7 son other than the party whose estate is levied on,
8 his heirs and devisees, and persons having actual
9 notice of the levy, unless a copy of the execution,
10 with a memorandum thereon, stating that such
11 estate is to be levied on, has been previously filed
12 in the registry of deeds for said county, or if such
13 copy has not been so filed, then such levy shall not
14 constitute a valid lien as aforesaid until the exe-
15 cution and officer's return, or the officer's deed,
16 shall be recorded in such registry pursuant to sec-
17 tions seventeen and forty of chapter one hundred
18 and three of the General Statutes.

1 SECT. 9. The register of deeds for said county
2 of Suffolk, shall record in a separate series of
3 books, all papers filed in his office pursuant to the
4 provisions of this act. He shall also keep, in
5 addition to the indexes now required by law, an
6 alphabetical index, classified by surnames, each
7 page of which shall be divided into six columns,
8 with titles or heads as follows:—

Time of Reception.	NAME OF OWNER OF ESTATE.	Nature of Incumbrance.	Book.	Page.	Discharge, &c.

9 In the first of these column he shall set down
10 the day, hour and minute when each paper is filed;
11 in the second, the names of all parties named in
12 such paper as interested in the real estate, the
13 title to which is affected thereby; in the third, the
14 nature of the incumbrance to which such paper
15 relates, whether an attachment, levy, or execution,
16 mechanic's lien, writ of entry, &c. ; in the fourth
17 and fifth, the book and page where such paper is
18 recorded; and in the sixth, a reference to the
19 nature, and to the place of record of any discharge
20 of attachment, release of lien, or other paper filed
21 in his office and affecting the validity or continu-
22 ance of the original lien or incumbrance.

1 SECT. 10. Sections five and six of chapter one
2 hundred and fifty of the General Statutes, and all
3 provisions of law requiring the filing of any paper
4 in the office of the clerk of the supreme judicial
5 court for the county of Suffolk, in cases of attach-
6 ments or levies of execution on real estate, or of
7 leasehold estates, are hereby repealed.

1 SECT. 11. This act shall take effect on the first
2 day of July next.

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 government has been successful in
 maintaining a high level of
 public order and security. This
 has been achieved through a
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 This has been achieved through a
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