

SENATE BILL 770

E1, P4

3lr2802
CF HB 941

By: **Senators Raskin, Colburn, King, Madaleno, Montgomery, Robey, ~~and Young Young, Forehand, Gladden, Jacobs, Muse, Shank, and Stone~~**

Introduced and read first time: February 1, 2013

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2013

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Fraudulent Liens – Prohibition**

3 FOR the purpose of prohibiting a person from filing certain liens or encumbrances
4 against certain individuals under certain circumstances; providing for penalties
5 for a violation of this Act; authorizing a certain person to file a certain action
6 and obtain certain relief in certain circumstances; authorizing a court to award
7 certain damages and attorney’s fees in a certain action; defining certain terms;
8 and generally relating to fraudulent liens.

9 BY adding to

10 Article – Criminal Law

11 Section 3–807

12 Annotated Code of Maryland

13 (2012 Replacement Volume and 2012 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Criminal Law**

17 **3–807.**

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
19 MEANINGS INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **(2) “PUBLIC EMPLOYEE” MEANS A PERSON EMPLOYED BY:**

2 **(I) THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCH**
3 **OF STATE GOVERNMENT;**

4 **(II) A DEPARTMENT, A BOARD, A BUREAU, AN AGENCY, OR A**
5 **COMMISSION OF THE STATE; ~~OR~~**

6 **(III) A COUNTY, MUNICIPALITY, OR LOCAL BOARD OF**
7 **EDUCATION IN THE STATE;**

8 **(IV) A BI-COUNTY AGENCY; OR**

9 **(V) A STATE LAW ENFORCEMENT AGENCY.**

10 **(3) “PUBLIC OFFICER” INCLUDES:**

11 **(I) A CONSTITUTIONAL OFFICER;**

12 **(II) AN ELECTED STATE OFFICIAL;**

13 **(III) AN EXECUTIVE HEAD OF A STATE DEPARTMENT OR**
14 **AGENCY;**

15 **(IV) AN ELECTED MEMBER OF THE GENERAL ASSEMBLY;**

16 **(V) THE EXECUTIVE DIRECTOR OF A STATE BOARD,**
17 **COMMISSION, OR AUTHORITY;**

18 **(VI) A MEMBER OF A STATE BOARD, COMMISSION, OR**
19 **AUTHORITY;**

20 **(VII) AN ELECTED COUNTY OFFICIAL;**

21 **(VIII) AN ELECTED MEMBER OF A LOCAL BOARD OF**
22 **EDUCATION; AND**

23 **(IX) AN ELECTED MUNICIPAL OFFICIAL.**

24 **(B) (1) A PERSON MAY NOT FILE A LIEN OR ENCUMBRANCE IN A**
25 **PUBLIC OR PRIVATE RECORD AGAINST THE REAL OR PERSONAL PROPERTY OF A**
26 **PUBLIC OFFICER OR PUBLIC EMPLOYEE IF:**

1 ~~(1)~~ ~~(H)~~ (1) 1. THE LIEN WAS FILED IN RESPONSE TO THE
2 PERFORMANCE OF THE PUBLIC OFFICER'S OR PUBLIC EMPLOYEE'S OFFICIAL
3 DUTIES; OR

4 ~~(H)~~ 2. THE LIEN WAS FILED IN RESPONSE TO AN
5 INDIVIDUAL FILING A COMPLAINT WITH OR REQUESTING OFFICIAL ACTION BY A
6 PUBLIC OFFICER OR A PUBLIC EMPLOYEE; AND

7 ~~(2)~~ (II) THE PERSON KNOWS ~~OR HAS REASON TO KNOW~~ THAT
8 THE LIEN OR ENCUMBRANCE IS:

9 ~~(H)~~ 1. FALSE; OR

10 ~~(H)~~ 2. CONTAINS OR IS BASED ON A MATERIALLY FALSE,
11 FICTITIOUS, OR FRAUDULENT STATEMENT OR REPRESENTATION.

12 (2) A PERSON MAY NOT FILE A LIEN OR ENCUMBRANCE IN A
13 PUBLIC OR PRIVATE RECORD AGAINST THE REAL OR PERSONAL PROPERTY OF
14 ANOTHER PERSON IF THE PERSON KNOWS THAT THE LIEN OR ENCUMBRANCE IS:

15 (I) FALSE; OR

16 (II) CONTAINS OR IS BASED ON A MATERIALLY FALSE,
17 FICTITIOUS, OR FRAUDULENT STATEMENT OR REPRESENTATION.

18 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A ~~FELONY~~
19 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

20 (1) FOR A FIRST VIOLATION, IMPRISONMENT ~~NOT LESS THAN 1~~
21 ~~YEAR BUT~~ NOT EXCEEDING ~~10 YEARS~~ 1 YEAR OR A FINE NOT EXCEEDING
22 \$10,000 OR BOTH; AND

23 (2) FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT NOT
24 EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

25 (D) (1) A PERSON AGAINST WHOM A LIEN IS FILED IN VIOLATION OF
26 SUBSECTION (B)(2) OF THIS SECTION MAY SEEK INJUNCTIVE AND OTHER
27 EQUITABLE RELIEF IN THE CIRCUIT COURT TO REMOVE THE LIEN.

28 (2) THE COURT MAY AWARD THE PREVAILING PARTY IN AN
29 ACTION BROUGHT IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION
30 WITH COMPENSATORY DAMAGES AND REASONABLE ATTORNEY'S FEES.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 ~~October~~ June 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.