

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 628

(Delegate Norman, *et al.*)

Environmental Matters

Judicial Proceedings

Real Property - Maryland Contract Lien Act - Monetary Judgments

This bill authorizes a party entitled to enforce a lien under the Maryland Contract Lien Act (MCLA), if the owner of the property subject to the lien is personally liable for alleged damages, to bring a suit (without waiving the lien) for a monetary judgment for the lien amount, plus costs and attorney's fees, without foreclosing on the property. If the property has already been foreclosed, the bill authorizes the party to (1) maintain suit in the foreclosure proceeding for a monetary judgment or (2) bring a separate suit for a monetary judgment. A monetary judgment sought in the event the property has been foreclosed may be for any deficiency amount, plus costs and attorney's fees.

Fiscal Summary

State Effect: The bill does not directly affect State governmental operations or finances.

Local Effect: The bill is clarifying and does not directly affect local governmental operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Under MCLA, a person seeking to create a lien as a result of a breach of contract must give written notice, within two years of the breach, to the person whose property is subject to the lien. Within 30 days after service of the notice, the person served may file a complaint in circuit court to determine whether probable cause exists to establish a lien. If the court orders a lien or the property owner fails to file a complaint, the person seeking to create a lien may file a statement of lien in the land records.

A lien may be enforced and foreclosed by the lien holder in the same manner, and subject to the same requirements, as the foreclosure of mortgages or deeds of trust on property containing a power of sale or an assent to a decree. If the owner of property subject to a lien is personally liable for alleged damages, suit for any deficiency following foreclosure may be maintained in the same proceeding, and suit for a monetary judgment for unpaid damages may be maintained without waiving any lien securing the same damages. An action to foreclose a lien must be brought within 12 years following recordation of the lien statement.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Contract Appeals, Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Department of Legislative Services

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