

SENATE BILL 959

K3

9lr3264

By: **Senator Jennings**

Introduced and read first time: February 15, 2019

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Wage Payment and Collection – General Contractor**
3 **Liability**

4 FOR the purpose of altering the circumstances under which certain contractors are jointly
5 and severally liable for certain violations of the wage payment and collection law by
6 certain subcontractors; prohibiting a certain obligation or contract right from being
7 impaired by this Act; providing for the application of this Act; and generally relating
8 to a general contractor's liability for unpaid wages.

9 BY repealing and reenacting, with amendments,
10 Article – Labor and Employment
11 Section 3–507.2
12 Annotated Code of Maryland
13 (2016 Replacement Volume and 2018 Supplement)

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

16 **Article – Labor and Employment**

17 3–507.2.

18 (a) Notwithstanding any remedy available under § 3–507 of this subtitle, if an
19 employer fails to pay an employee in accordance with § 3–502 or § 3–505 of this subtitle,
20 after 2 weeks have elapsed from the date on which the employer is required to have paid
21 the wages, the employee may bring an action against the employer to recover the unpaid
22 wages.

23 (b) If, in an action under subsection (a) of this section, a court finds that an
24 employer withheld the wage of an employee in violation of this subtitle and not as a result
25 of a bona fide dispute, the court may award the employee an amount not exceeding 3 times

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the wage, and reasonable counsel fees and other costs.

2 (c) (1) In this subsection, "construction services" has the meaning stated in §
3 3-901 of this title.

4 (2) In an action brought under subsection (a) of this section, a general
5 contractor on a project for construction services is jointly and severally liable for a violation
6 of this subtitle that is committed by a subcontractor, regardless of whether the
7 subcontractor is in a direct contractual relationship with the general contractor, **IF:**

8 **(I) THE EMPLOYEE NOTIFIED THE GENERAL CONTRACTOR, IN**
9 **WRITING, WITHIN 90 DAYS AFTER THE VIOLATION OCCURRED; AND**

10 **(II) THE GENERAL CONTRACTOR FAILED TO CURE THE**
11 **VIOLATION WITHIN 30 DAYS AFTER RECEIVING THE NOTICE UNDER ITEM (I) OF THIS**
12 **PARAGRAPH.**

13 (3) A subcontractor shall indemnify a general contractor for any wages,
14 damages, interest, penalties, or attorney's fees owed as a result of the subcontractor's
15 violation unless:

16 (i) indemnification is provided for in a contract between the general
17 contractor and the subcontractor; or

18 (ii) a violation of the subtitle arose due to a lack of prompt payment
19 in accordance with the terms of the contract between the general contractor and the
20 subcontractor.

21 SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing obligation
22 or contract right may not be impaired in any way by this Act.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
24 apply only prospectively and may not be applied or interpreted to have any effect on or
25 application to any cause of action arising before the effective date of this Act.

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2019.