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HB 629/95 - ECM

1996 Regular Session
6r1571
CF 6r1389

By: Senator Astle

Introduced and read first time: January 22, 1996
Assigned to: Judicial Proceedings

Committee Report: Favorable
Senate action: Adopted
Read second time: February 22, 1996

CHAPTER ____

1 AN ACT concerning

2 **Mechanic's Lien - Notice - Time Limitation**

3 FOR the purpose of increasing a certain time period in which certain persons shall
4 provide notice of intention to claim a mechanic's lien in order to be eligible for the
5 lien; and generally relating to notices of intention to claim a mechanic's lien.

6 BY repealing and reenacting, with amendments,
7 Article - Real Property
8 Section 9-104
9 Annotated Code of Maryland
10 (1996 Replacement Volume)

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

13 **Article - Real Property**

14 9-104.

15 (a) (1) A subcontractor doing work or furnishing materials or both for or about
16 a building other than a single family dwelling being erected on the owner's land for his
17 own residence is not entitled to a lien under this subtitle unless, within [90] 120 days
18 after doing the work or furnishing the materials, the subcontractor gives written notice of
19 an intention to claim a lien substantially in the form specified in subsection (b) of this
20 section.

21 (2) A subcontractor doing work or furnishing materials or both for or about
22 a single family dwelling being erected on the owner's land for his own residence is not
23 entitled to a lien under this subtitle unless, within [90] 120 days after doing work or
24 furnishing materials for or about that single family dwelling, the subcontractor gives

2

1 written notice of an intention to claim a lien in accordance with subsection (a)(1) of this
2 section and the owner has not made full payment to the contractor prior to receiving the
3 notice.

4 (b) The form of notice is sufficient for the purposes of this subtitle if it contains
5 the information required and is substantially in the following form:

6 "Notice to Owner or Owner's Agent of
7 Intention to Claim a Lien"

8

9 Subcontractor

10 did work or furnished material for or about the building generally designated or briefly
11 described as

12

13

14 The total amount earned under the subcontractor's undertaking to the date hereof is
15 \$ of which \$ is due and unpaid as of the date hereof. The work done or materials
16 provided under the subcontract were as follows: (insert brief description of the work done
17 and materials furnished, the time when the work was done or the materials furnished, and
18 the name of the person for whom the work was done or to whom the materials were
19 furnished).

20 I do solemnly declare and affirm under the penalties of perjury that the contents of
21 the foregoing notice are true to the best of the affiant's knowledge, information, and
22 belief.

23 In DnT.....

24 (Individual)

25 on behalf of

26 (Subcontractor)

27 (insert if subcontractor is not an

28 individual)

29 (c) The notice is effective if given by registered or certified mail, return receipt
30 requested, or personally delivered to the owner by the claimant or his agent.

31 (d) If there is more than one owner, the subcontractor may comply with this
32 section by giving the notice to any of the owners.

33 (e) If notice cannot be given on account of absence or other causes, the
34 subcontractor, or his agent, in the presence of a competent witness and within [90] 120
35 days, may place the notice on the door or other front part of the building. Notice by
36 posting according to this subsection is sufficient in all cases where the owner of the
37 property has died and his successors in title do not appear on the public records of the
38 county.

39 (f) (1) On receipt of notice given under this section, the owner may withhold,
40 from sums due the contractor, the amount the owner ascertains to be due the
41 subcontractor giving the notice.

3

1 (2) If the subcontractor giving notice establishes a lien in accordance with
2 this subtitle, the contractor shall receive only the difference between the amount due him
3 and that due the subcontractor giving the notice.

4 (3) Notwithstanding any other provision of this section to the contrary, the
5 lien of the subcontractor against a single family dwelling being erected on the land of the
6 owner for his own residence shall not exceed the amount by which the owner is indebted
7 under the contract at the time the notice is given.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 1996.