
By: **Delegates Baldwin, Love, V. Mitchell, and Palumbo**
Introduced and read first time: February 13, 1998
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Mechanics' Liens - Executory Contracts - Prohibited Provision**

3 FOR the purpose of prohibiting certain executory contracts between an owner and a
4 contractor from waiving or requiring the contractor to waive the right to claim a
5 mechanics' lien; prohibiting certain executory contracts between certain parties
6 related to construction, alteration, or repair of certain improvements from
7 abrogating or waiving certain rights of the subcontractor; and generally relating
8 to prohibited provisions in certain executory construction contracts.

9 BY repealing and reenacting, with amendments,
10 Article - Real Property
11 Section 9-113
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1997 Supplement)

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

16 **Article - Real Property**

17 9-113.

18 (a) (1) AN EXECUTORY CONTRACT BETWEEN AN OWNER AND ANY
19 CONTRACTOR THAT IS RELATED TO THE CONSTRUCTION, ALTERATION, OR REPAIR
20 OF A BUILDING, STRUCTURE, OR IMPROVEMENT MAY NOT WAIVE OR REQUIRE THE
21 CONTRACTOR TO WAIVE THE RIGHT TO CLAIM A MECHANICS' LIEN.

22 (2) An executory contract between a contractor and any subcontractor
23 that is related to construction, alteration, or repair of a building, structure, or
24 improvement may not waive or require the subcontractor to waive the right to:

25 [(1)] (I) Claim a mechanics' lien; or

26 [(2)] (II) Sue on a contractor's bond.

1 (b) A provision in an executory contract between [a contractor and a
2 subcontractor] THE PARTIES that is related to construction, alteration, or repair of [a
3 building, structure, or] AN improvement DESCRIBED IN § 9-102 OF THIS SUBTITLE
4 and that conditions payment to the subcontractor on receipt by the contractor of
5 payment from the owner or any other third party may not abrogate or waive the right
6 of the subcontractor to:

7 (1) Claim a mechanics' lien; or

8 (2) Sue on a contractor's bond.

9 (c) Any provision of a contract made in violation of this section is void as
10 against the public policy of this State.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 1998.