

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 657 (Delegate Brown)

Economic Matters

Mechanics' Liens - Notice to Purchaser

This bill provides that the filing of a petition with a circuit court for a mechanics' lien prior to passage of legal title and at least 30 days prior to recordation of the deed constitutes notice to a purchaser of real property of the possibility of a mechanics' lien being perfected, even if equitable title has passed to the purchaser. The filing of a petition concerning a mechanics' lien does not affect a bona fide purchaser for value.

The bill applies prospectively.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: A building erected, repaired, or improved to the extent of 15% of its value is subject to the establishment of a mechanic's lien for the value of work done for or about the building and for materials furnished for or about the building. In order to obtain a judgement for a mechanics' lien, a contractor must first file a petition with a circuit court within 180 days after the work has been finished or the materials completed. The filing of the petition constitutes notice to a purchaser of the possibility of a lien being perfected on the property. Under the doctrine of equitable conversion, a judgement obtained by a third party against the seller of real property after a contract of sale is executed does not create a lien on the land

under contract with the purchaser. Equitable title passes to the purchaser on execution of the contract while legal title remains with the seller until delivery of the deed (closing).

Background: Under *Himmighoefer v. Medallion Indus., Inc.*, 302 Md. 270 (1985), where there were conflicting claims to property between a bona fide purchaser for value and a mechanics' lien holder, a purchaser who acquires equitable title prior to the filing of a petition for a mechanics' lien prevails.

Small Business Effect: This bill changes the doctrine of equitable conversion with respect to a mechanics' lien holder who files a petition at least 30 days before closing. A buyer would take subject to such a lien. The bill would result in increased collections for small business contractors. To the extent land sale contracts do not close: (1) small business real estate brokers could experience reduced commission revenues; and (2) small business mortgage lenders could experience reduced interest revenues, offset by any forfeited points.

Additional Information

Prior Introductions: Substantially similar bills were introduced in the 1999 session as HB 768 and SB 680. HB 768 received an unfavorable report from the House Economic Matters Committee. SB 680 received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: SB 820 (Senator DeGrange) - Judicial Proceedings.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2000
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