

HOUSE BILL 1404

N1, M3

71r3366

By: **Delegates Oaks and Carter**

Introduced and read first time: March 5, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Water and Sewer Liens – Forced Sale – Requirements**

3 FOR the purpose of prohibiting certain water and sewer authorities from forcing the
4 sale of real estate affected by a certain lien except under certain circumstances;
5 requiring a certain purchaser of real estate at a forced sale to remit certain
6 profits to the previous owner, tenant, or occupant; establishing methods for the
7 assessment of the amount remitted; and generally relating to requirements for
8 the forced sale of real estate under a water and sewer lien.

9 BY repealing and reenacting, with amendments,
10 Article – Environment
11 Section 9–949
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 2006 Supplement)

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

16 **Article – Environment**

17 9–949.

18 (a) An authority has a lien on real estate:

19 (1) For:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) The amount of any fee, rent, or charge, including a tapping
2 fee, imposed on an owner, tenant, or occupant of the real estate for the use and
3 services of a project of the authority; and

4 (ii) Any accrued interest on the fee, rent, or charge; and

5 (2) From the time when the fee, rent, or charge is due and payable.

6 (b) A lien under this section is superior to any interest of an owner, tenant,
7 or occupant of the affected real estate.

8 (C) **AN AUTHORITY MAY NOT FORCE A SALE OF REAL ESTATE AFFECTED**
9 **BY A LIEN UNDER THIS SECTION BY JUDICIAL FORECLOSURE, JUDGMENT,**
10 **EXECUTION, OR ANY OTHER COURT ORDER UNLESS:**

11 (1) **THE VALUE OF THE LIEN HELD BY AN AUTHORITY IS EQUAL**
12 **TO OR GREATER THAN THE VALUE OF THE REAL ESTATE; OR**

13 (2) **THE CUMULATIVE VALUE OF LIENS HELD BY AN AUTHORITY IS**
14 **EQUAL TO OR GREATER THAN THE VALUE OF THE AFFECTED REAL ESTATE.**

15 (D) **A PURCHASER OF REAL ESTATE AT A FORCED SALE PROCEEDING**
16 **FROM A LIEN ESTABLISHED UNDER THIS SECTION SHALL REMIT ANY PROFIT**
17 **FROM A SUBSEQUENT SALE OF THE REAL ESTATE TO THE PREVIOUS OWNER OF**
18 **THE REAL ESTATE UP TO THE FAIR MARKET VALUE OF THE REAL ESTATE AT THE**
19 **TIME OF SALE, AS BASED ON:**

20 (1) **AN APPRAISAL MADE BY AN INDEPENDENT PROFESSIONAL**
21 **APPRAISER;**

22 (2) **THE REPORT OF AN INDEPENDENT CONSULTANT; OR**

23 (3) **ANY OTHER METHOD CONSIDERED APPROPRIATE BY THE**
24 **AUTHORITY.**

25 [(c)] (E) A lien under this section binds or affects a subsequent bona fide
26 purchaser of the real estate who purchases for valuable consideration and without
27 actual notice of the lien only after the amount of the lien is entered in a lien register
28 that is:

1 (1) Furnished for this purpose by and at the expense of the authority;
2 and

3 (2) Kept among the land records of the county where the real estate is
4 located.

5 **[(d)] (F)** (1) The clerk of the circuit court in the county where the real
6 estate is located:

7 (i) Shall keep and make available for public inspection any lien
8 register that an authority provides to the clerk under this section;

9 (ii) Shall record and index in the lien register any entry that the
10 authority certifies; and

11 (iii) Is entitled to a fee of 5 cents for each entry that the clerk
12 makes under this section.

13 (2) To record a lien under this section, an authority shall pay to the
14 clerk of the circuit court a fee of 5 cents for each entry.

15 (3) The amount of the fee paid for recording a lien shall be added to
16 the amount of the lien.

17 **[(e)] (G)** (1) To discharge a lien under this section, a person shall pay to
18 the authority:

19 (i) The total amount of the lien; and

20 (ii) Any interest that has accrued on the lien to the date of
21 payment.

22 (2) When a person discharges a lien under this subsection, the
23 authority shall deliver to the person a certificate of payment.

24 (3) When a person presents a certificate of payment to the clerk of the
25 circuit court in the county where the real estate is located, the clerk, without any fee,
26 shall record the discharge of the lien in the lien register.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2007.