

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 454

(Delegate Niemann)

Environmental Matters

Judicial Proceedings

Real Property - Maryland Contract Lien Act - Foreclosures

This bill amends the Maryland Contract Lien Act (MCLA) to specify that the enforcement and foreclosure of a lien under the Act is conducted in the same manner as the foreclosure of a mortgage or deed of trust on nonresidential property.

The bill takes effect June 1, 2012.

Fiscal Summary

State Effect: None. The bill clarifies current law.

Local Effect: None. The bill clarifies current law.

Small Business Effect: None.

Analysis

Current Law/Background: Under MCLA, a person seeking to create a lien as a result of a breach of contract must give written notice, within two years of the breach, to the person whose property is subject to the lien. Within 30 days after service of the notice, the person served may file a complaint in circuit court to determine whether probable cause exists to establish a lien. If the court orders a lien or the property owner fails to file a complaint, the person seeking to create a lien may file a statement of lien in the land records.

A lien may be enforced and foreclosed by the lien holder in the same manner, and subject to the same requirements, as the foreclosure of mortgages or deeds of trust on property

containing a power of sale or an assent to a decree. An action to foreclose a lien must be brought within 12 years following recordation of the lien statement. Generally, liens against real property take priority in the order in which they are recorded.

The bill clarifies the applicability of the recent changes in the residential foreclosure process as a result of Chapter 485 of 2010. The measure was intended to prevent a homeowner from losing his or her home through foreclosure when loan modification may be available and requires the consideration of other loss mitigation options where appropriate.

Additional Information

Prior Introductions: HB 367 of 2011 passed the House but received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: SB 684 (Senator Ramirez) - Judicial Proceedings.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Housing and Community Development; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2012
mm/kdm

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