

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 323

(Senator Bates)

Judicial Proceedings

Mechanics' Liens - Design Services

This bill allows for the establishment of a mechanic's lien on an owner's land for the payment of all debts for work or materials furnished pursuant to a contract for (1) building or landscape architectural services; (2) engineering services; (3) land survey services; or (4) interior design services that pertain to interior construction and that are provided by a certified interior designer. Regardless of the amount contracted, the lien may be established whether or not a building is erected or a building on the land is repaired, rebuilt, or improved. The bill eliminates, for those specified services, the requirement that the building, repair, rebuilding, or improvement reach 15% of the value of the property before a lien can be established.

Fiscal Summary

State Effect: None. Any impact on the District Courts can be handled with existing resources. The Office of the Attorney General can handle the bill's requirements with existing resources, assuming 50 or fewer new complaints are generated by the bill.

Local Effect: None. Any impact on the circuit courts can be handled with existing resources.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Every building erected and every building repaired, rebuilt, or improved to the extent of 15% of its value is subject to the establishment of a lien for the payment of all debts, without regard to the amount, contracted for work and materials. This can include

the drilling and installation of wells to supply water; the construction or installation of any swimming pool or fencing; the sodding, seeding, or planting in or about the premises of any shrubs, trees, plants, flowers, or nursery products; the grading, filling, landscaping, and paving of the premises; the provision of building or landscape architectural services, engineering services, land surveying services, or interior design services related to interior construction and are provided by a certified interior designer; as well as the leasing of equipment, with or without an operator, for use on the building or premises.

If the owner contracts for the installation of waterlines, sanitary sewers, storm drains, or streets to service all lots in a development of the owner's land, each lot and its improvements are subject to the establishment of a lien, on a *pro rata* basis, for all debts for work and material in connection with the installation.

Background: The Administrative Office of the Courts reports that, in 2014, 231 mechanics' liens were filed in Maryland. In 2013, 227 mechanics' liens were filed.

In 2005, the Maryland Court of Special Appeals reaffirmed, in *L. W. Wolfe Enterprises v. Maryland National Golf, L.P.*, 165 Md. App 339 (2005), the statutory requirement of the minimum improvement when the court held that a mechanic's lien is not permitted where the value of the services provided by a contractor was less than 15% of the value of the existing property.

Small Business Effect: To the extent that small businesses are providers of building or landscape architectural services, engineering services, land survey services, or interior design services that pertain to interior construction and are provided by a certified interior designer, small businesses may benefit from the ability to attach a mechanic's lien to the subject property without meeting the 15% minimum improvement requirement. Conversely, to the extent that small businesses contract for specified services, the properties owned by small businesses may be subject to mechanics' liens where they previously would not have been.

Additional Information

Prior Introductions: None.

Cross File: HB 442 (Delegate Holmes) - Environment and Transportation.

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

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