K3, D1, D3

(PRE-FILED)

8lr0989

By: Senator Norman Requested: October 26, 2017 Introduced and read first time: January 10, 2018 Assigned to: Judicial Proceedings

A BILL ENTITLED

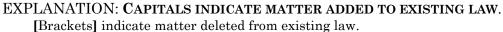
1 AN ACT concerning

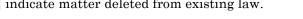
$\mathbf{2}$ Labor and Employment – Lien for Unpaid Wages – District Court Jurisdiction

- 3 FOR the purpose of establishing that the District Court has concurrent jurisdiction with 4 the circuit courts over proceedings under certain provisions of law regarding liens $\mathbf{5}$ for unpaid wages and has the powers of a court in equity in those proceedings; 6 authorizing a certain employer to dispute a lien for unpaid wages by filing a 7 complaint in the District Court sitting in the county where property of an employer 8 is located; making conforming changes; providing for the application of this Act; and 9 generally relating to liens for unpaid wages.
- 10 BY adding to
- 11 Article – Courts and Judicial Proceedings
- 12Section 4-406
- Annotated Code of Maryland 13
- 14(2013 Replacement Volume and 2017 Supplement)
- 15BY repealing and reenacting, with amendments,
- 16Article – Labor and Employment
- Section 3–1102 through 3–1105 17
- Annotated Code of Marvland 18
- (2016 Replacement Volume and 2017 Supplement) 19
- 20SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 21That the Laws of Maryland read as follows:
- 22

Article – Courts and Judicial Proceedings

4-406. 23







$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \end{array} $	THE DISTRICT COURT HAS CONCURRENT JURISDICTION WITH THE CIRCUIT COURT OVER PROCEEDINGS UNDER TITLE 3, SUBTITLE 11 OF THE LABOR AND EMPLOYMENT ARTICLE AND HAS THE POWERS OF A COURT IN EQUITY IN THOSE PROCEEDINGS.			
5	Article – Labor and Employment			
6	3–1102.			
7 8	To establish a lien for unpaid wages under § 3–1104 of this subtitle, an employee shall first provide written notice to an employer that:			
9 10	(1) is served on the employer within the statute of limitations period under § 5–101 of the Courts Article;			
$\begin{array}{c} 11 \\ 12 \end{array}$	3–121 ; and	(2)	is pe	rsonally served in accordance with Maryland Rule $2-121$ OR
$13 \\ 14 \\ 15$	(3) contains the information required by the Commissioner under § 3–1110 of this subtitle to provide the employer with adequate notice of the wages claimed and the property against which the lien for unpaid wages is sought.			
16	3–1103.			
17	(a)	An e	mploye	r may dispute a lien for unpaid wages by filing a complaint in:
18 19	(1) THE DISTRICT COURT SITTING IN THE COUNTY WHERE PROPERTY OF AN EMPLOYER IS LOCATED; OR			
20		(2)	the ci	rcuit court for the county where property of an employer is located.
21	(b) A complaint filed under this section shall:			
22		(1)	be fil	ed within 30 days after notice is served on the employer; and
23		(2)	inclu	de:
$\begin{array}{c} 24 \\ 25 \end{array}$	the name of	the ei	(i) nploye	the name of the employer that owes the employee the wages and e to whom the wages are owed;
$\begin{array}{c} 26 \\ 27 \end{array}$	the employe	er und	(ii) er§3–	a copy of the notice to establish a lien for unpaid wages served on 1102 of this subtitle;
28			(iii)	a statement of any defense to the lien for unpaid wages; and
29			(iv)	an affidavit containing a statement of facts that support any

1 defenses raised. $\mathbf{2}$ (c) The employer or employee may request an evidentiary hearing. 3 If an employer files a complaint, the **DISTRICT COURT OR THE** circuit court (d) 4 shall determine whether to issue an order establishing a lien for unpaid wages: $\mathbf{5}$ (1)within 45 days after the date on which the complaint was filed; and 6 (2)based on a preponderance of the evidence in which the employee has the burden of proof to establish the lien for unpaid wages. 7 8 (e) (1)If THE DISTRICT COURT OR a circuit court issues an order to establish 9 a lien for unpaid wages, the employee is entitled to court costs and reasonable attorney's 10 fees. 11 (2)If THE DISTRICT COURT OR a circuit court determines the effort to 12establish a lien for unpaid wages to have been frivolous or made in bad faith, the court may 13award court costs and reasonable attorney's fees to an employer. 3-1104.1415A lien for unpaid wages is established: 16 after THE DISTRICT COURT OR a circuit court issues an order to (1)17establish a lien for unpaid wages; or 18if no complaint disputing the lien for unpaid wages is filed, within 30 (2)days after a notice is served under § 3–1102 of this subtitle. 19 203-1105.21If THE DISTRICT COURT OR a circuit court orders the establishment of a lien (a)22for unpaid wages, the employee may record the lien for unpaid wages by filing a wage lien 23statement under subsection (c) of this section. 24If the employer fails to file a timely complaint disputing the notice of wage (b) 25lien, the employee may record the lien for unpaid wages by filing a wage lien statement 26under subsection (c) of this section along with proof of service in accordance with Maryland 27Rule 2–126. 28(c) A wage lien statement may be recorded: for a lien against real property, by filing a wage lien statement, in a 29(1)form prescribed by the Commissioner, with: 30

THE CLERK OF THE DISTRICT COURT SITTING IN THE 1 **(I)** $\mathbf{2}$ COUNTY WHERE ANY PORTION OF THE PROPERTY IS LOCATED; OR 3 **(II)** the clerk of the circuit court for the county where any portion of 4 the property is located; and $\mathbf{5}$ (2)for a lien against personal property, by filing a wage lien statement in the same manner, form, and place as a financing statement under Title 9, Subtitle 5 of the 6 7 Commercial Law Article. 8 (d) (1)If an employee does not record a wage lien statement within 180 days 9 after the lien for unpaid wages is established, a lien for unpaid wages shall be extinguished 10without prejudice. 11 If payment is made or a bond is filed for the amount of wages and (2)12damages stated in the wage lien statement, the recorded lien for unpaid wages shall be 13released. 14(e) A lien for unpaid wages recorded under this section shall be considered a 15secured claim that has priority: 16(1)from the date of the court order establishing the lien for unpaid wages; 17or 18if no complaint disputing the lien for unpaid wages is filed, from the (2)19 date that the employee filed the wage lien statement. 20Subsequent bona fide purchasers of any property subject to a recorded lien for (f) 21unpaid wages are deemed to have constructive notice of the lien for unpaid wages from date of recordation of a wage lien statement. 2223SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to 24apply only prospectively and may not be applied or interpreted to have any effect on or application to any case filed before the effective date of this Act. 2526SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect 27October 1, 2018.

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