

SENATE BILL 35

K3, D1, D3

8lr0989

(PRE-FILED)

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

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
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

12 Section 4–406

13 Annotated Code of Maryland

14 (2013 Replacement Volume and 2017 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Labor and Employment

17 Section 3–1102 through 3–1105

18 Annotated Code of Maryland

19 (2016 Replacement Volume and 2017 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

21 That the Laws of Maryland read as follows:

22 **Article – Courts and Judicial Proceedings**

23 **4–406.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 defenses raised.

2 (c) The employer or employee may request an evidentiary hearing.

3 (d) If an employer files a complaint, the **DISTRICT COURT OR THE** circuit court
4 shall determine whether to issue an order establishing a lien for unpaid wages:

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
7 the burden of proof to establish the lien for unpaid wages.

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
12 establish a lien for unpaid wages to have been frivolous or made in bad faith, the court may
13 award court costs and reasonable attorney's fees to an employer.

14 3-1104.

15 A lien for unpaid wages is established:

16 (1) after **THE DISTRICT COURT OR** a circuit court issues an order to
17 establish a lien for unpaid wages; or

18 (2) if no complaint disputing the lien for unpaid wages is filed, within 30
19 days after a notice is served under § 3-1102 of this subtitle.

20 3-1105.

21 (a) If **THE DISTRICT COURT OR** a circuit court orders the establishment of a lien
22 for unpaid wages, the employee may record the lien for unpaid wages by filing a wage lien
23 statement under subsection (c) of this section.

24 (b) If the employer fails to file a timely complaint disputing the notice of wage
25 lien, the employee may record the lien for unpaid wages by filing a wage lien statement
26 under subsection (c) of this section along with proof of service in accordance with Maryland
27 Rule 2-126.

28 (c) A wage lien statement may be recorded:

29 (1) for a lien against real property, by filing a wage lien statement, in a
30 form prescribed by the Commissioner, with:

1 **(I) THE CLERK OF THE DISTRICT COURT SITTING IN THE**
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

5 (2) for a lien against personal property, by filing a wage lien statement in
6 the same manner, form, and place as a financing statement under Title 9, Subtitle 5 of the
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
10 without prejudice.

11 (2) If payment is made or a bond is filed for the amount of wages and
12 damages stated in the wage lien statement, the recorded lien for unpaid wages shall be
13 released.

14 (e) A lien for unpaid wages recorded under this section shall be considered a
15 secured claim that has priority:

16 (1) from the date of the court order establishing the lien for unpaid wages;
17 or

18 (2) if no complaint disputing the lien for unpaid wages is filed, from the
19 date that the employee filed the wage lien statement.

20 (f) Subsequent bona fide purchasers of any property subject to a recorded lien for
21 unpaid wages are deemed to have constructive notice of the lien for unpaid wages from date
22 of recordation of a wage lien statement.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
24 apply only prospectively and may not be applied or interpreted to have any effect on or
25 application to any case filed before the effective date of this Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2018.