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# Maryland Mechanics' Lien Law

Excerpts from the Annotated Code of Maryland, Title 9, Statutory Liens on Real Property

## SUBTITLE 1. MECHANICS' LIENS

### § 9-101. Definitions.

- (a) In general. -- In this subtitle the following words have the meanings indicated
- (b) Building. -- "Building" includes any unit of a nonresidential building that is leased or separately sold as a unit.
- (c) Contract. -- "Contract" means an agreement of any kind or nature, express or implied, for a contractor, doing work or furnishing material, or both, for or about a building as may give rise to a lien under this subtitle.
- (d) Contractor. -- "Contractor" means a person who has a contract with an owner
- (e) Land. -- "Land" means the land to which a lien extends under this subtitle or the land within the boundaries established by proceedings in accordance with the Maryland Rules. "Land" includes the improvements to the land.
- (f) Owner. -- "Owner" means the owner of the land except that, when the contractor executes the contract with a tenant for life or for years, "owner" means the tenant.
- (g) Subcontractor. -- "Subcontractor" means a person who has a contract with anyone except the owner or his agent.

[1976, ch. 349, § 3; 1983, ch. 23.]

### § 9-102. Property subject to lien.

- (a) Buildings. -- Every building erected and every building repaired, rebuilt, or improved to the extent of 15 percent of its value is subject to establishment of a lien in accordance with this subtitle for the payment of all debts, without regard to the amount, contracted for work done for or about the building and for materials furnished for or about the building, including 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 that pertain to interior construction and are provided by a certified interior designer, and the leasing of equipment, with or without an operator, for use for or about the building or premises.
- (b) Waterlines, sewers, drains and streets in development. -- If the owner of land or the owner's agent 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, if any, are subject, on a basis pro rata to the number of lots being developed, to the establishment of a lien as provided in subsection (a) of this section for all debts for work and material in connection with the installation.
- (c) Machines, wharves, and bridges. -- Any machine, wharf, or bridge erected, constructed, or repaired within the State may be subjected to a lien in the same manner as a building is subjected to a lien in accordance with this subtitle.
- (d) Exemptions. -- However, a building or the land on which the building is erected may not be subjected to a lien under this subtitle if, prior to the establishment of a lien in accordance with this subtitle, legal title has been granted to a bona fide purchaser for value.

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- (e) Filing of petition constitutes notice to purchaser. -- The filing of a petition under § 9-105 shall constitute notice to a purchaser of the possibility of a lien being perfected under this subtitle.

[An. Code 1957, art. 21, §§ 9-101, 9-111; 1974, ch. 12, § 2; 1976, ch. 349, § 3; 1977, ch. 749; 1980, ch. 319; 1984, ch. 595; 1987, ch. 267; 1996, chs. 435, 440; 2006, ch. 198; 2009, chs. 54, 55]

### **§ 9-103. Extent of lien.**

- (a) In general. -- A lien established in accordance with this subtitle shall extend to the land covered by the building and to as much other land, immediately adjacent and belonging in like manner to the owner of the building, as may be necessary for the ordinary and useful purposes of the building. The quantity and boundaries of the land may be designated as provided in this section.
- (b) Designation of boundaries. -- An owner of any land who desires to erect any building or to contract with any person for its erection may define, in writing, the boundaries of the land appurtenant to the building before the commencement of construction, and then file the boundaries for record with the clerk of the circuit court for the county. The designation of boundaries shall be binding on all persons. If the boundaries are not designated before the commencement of a building, the owner of the land or any person having a lien or encumbrance on the land by mortgage, judgment, or otherwise entitled to establish a lien in accordance with this subtitle may apply, by written petition, to the circuit court for the county to designate the boundaries.
- (c) Unfinished building; repaired or rebuilt building. --
  - (1) If a building is commenced and not finished, a lien established in accordance with this subtitle shall attach to the extent of the work done or material furnished.
  - (2) If a building is erected or repaired, rebuilt, or improved to the extent of 25 percent of its value, by a tenant for life or years or by a person employed by the tenant, any lien established in accordance with this subtitle applies only to the extent of the tenant's interest.

[An. Code 1957, art. 21, § 9-102; 1974, ch. 12, § 2; 1976, ch. 349, § 3; 1977, ch. 532; 2011, ch. 65.]

### **§ 9-104. Notice to owner by subcontractor.**

- (a) Notice required to entitle subcontractor to lien. --
  - (1) A subcontractor doing work or furnishing materials or both for or about a building other than a single family dwelling being erected on the owner's land for his own residence is not entitled to a lien under this subtitle unless, within 120 days after doing the work or furnishing the materials, the subcontractor gives written notice of an intention to claim a lien substantially in the form specified in subsection (b) of this section.
  - (2) A subcontractor doing work or furnishing materials or both for or about a single family dwelling being erected on the owner's land for his own residence is not entitled to a lien under this subtitle unless, within 120 days after doing work or furnishing materials for or about that single family dwelling, the subcontractor gives written notice of an intention to claim a lien in accordance with subsection (a) (1) of this section and the owner has not made full payment to the contractor prior to receiving the notice.
- (b) Form of notice. -- The form of notice is sufficient for the purposes of this subtitle if it contains the information required and is substantially in the following form:

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"Notice to Owner or Owner's Agent of Intention to Claim a Lien

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(Subcontractor)

did work or furnished material for or about the building generally designated or briefly described as

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The total amount earned under the subcontractor's undertaking to the date hereof is \$ \_\_\_\_\_ of which \$ \_\_\_\_\_ is due and unpaid as of the date hereof. The work done or materials provided under the subcontract were as follows: (insert brief description of the work done and materials furnished, the time when the work was done or the materials furnished, and the name of the person for whom the work was done or to whom the materials were furnished).

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing notice are true to the best of the affiant's knowledge, information, and belief.

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(Individual)

on behalf of \_\_\_\_\_  
(Subcontractor)

(Insert if subcontractor is not an individual)"

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- (c) Notice by mail or personal delivery. -- The notice is effective if given by registered or certified mail, return receipt requested, or personally delivered to the owner by the claimant or his agent.
- (d) More than one owner. -- If there is more than one owner, the subcontractor may comply with this section by giving the notice to any of the owners.
- (e) Notice by posting. -- If notice cannot be given on account of absence or other causes, the subcontractor, or his agent, in the presence of a competent witness and within 120 days, may place the notice on the door or other front part of the building. Notice by posting according to this subsection is sufficient in all cases where the owner of the property has died and his successors in title do not appear on the public records of the county.
- (f) Payments by owner to contractor after notice; limitation on lien against certain single family dwellings. --
  - (1) On receipt of notice given under this section, the owner may withhold, from sums due the contractor, the amount the owner ascertains to be due the subcontractor giving the notice.
  - (2) If the subcontractor giving notice establishes a lien in accordance with this subtitle, the contractor shall receive only the difference between the amount due him and that due the subcontractor giving the notice.
  - (3) Notwithstanding any other provision of this section to the contrary, the lien of the subcontractor against a single family dwelling being erected on the land of the owner for his own residence shall not exceed the amount by which the owner is indebted under the contract at the time the notice is given.

[An. Code 1957, art. 21, §§ 9-103, 9-104; 1974, ch. 12, § 2; 1976, ch. 349, § 3; 1982, ch. 251; 1996, ch. 10, § 1; ch. 377.]

## **§ 9-105. Filing of claims**

- (a) In general. -- In order to establish a lien under this subtitle, a person entitled to a lien shall file proceedings in the circuit court for the county where the land or any part of the land is located within 180 days after the work has been finished or the materials furnished. The proceedings shall be commenced by filing with the clerk, the following:
  - (1) A petition to establish the mechanic's lien, which shall set forth at least the following:
    - (i) The name and address of the petitioner;
    - (ii) The name and address of the owner;
    - (iii) The nature or kind of work done or the kind and amount of materials furnished, the time when the work was done or the materials furnished, the name of the person for whom the work was done or to whom the materials were furnished, and the amount or sum claimed to be due, less any credit recognized by the petitioner;
    - (iv) A description of the land, including a statement whether part of the land is located in another county, and a description adequate to identify the building; and
    - (v) If the petitioner is a subcontractor, facts showing that the notice required under § 9-104 of this subtitle was properly mailed or served upon the owner, or, if so authorized, posted on the building. If the lien is sought to be established against two or more buildings on separate lots or parcels of land owned by the same person, the lien will be postponed to other mechanics' liens unless the petitioner designates the amount he claims is due him on each building;
  - (2) An affidavit by the petitioner or some person on his behalf, setting forth facts upon which the petitioner claims he is entitled to the lien in the amount specified; and

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- (3) Either original or sworn, certified, or photostatic copies of material papers or parts thereof, if any, which constitute the basis of the lien claim, unless the absence thereof is explained in the affidavit.
- (b) Docketing; process; pleadings. -- The clerk shall docket the proceedings as an action in equity, and all process shall issue out of and all pleadings shall be filed in the one action.

[An. Code 1957, art. 21, § 9-105; 1974, ch. 12, § 2; 1975, ch. 108; 1976, ch. 349, § 3; 1994, ch. 563; 1995, ch. 3, § 1, 2011, ch. 65.]

## **§ 9-106. Procedure following filing of claim**

- (a) Review of pleadings and documents filed; order to show cause; opposing affidavit; answer showing cause. --
  - (1) Then a petition to establish a mechanic's lien is filed, the court shall review the pleadings and documents on file and may require the petitioner to supplement or explain any of the matters therein set forth. If the court determines that the lien should attach, it shall pass an order that directs the owner to show cause within 15 days from the date of service on the owner of a copy of the order, together with copies of the pleadings and documents on file, why a lien upon the land or building and for the amount described in the petition should not attach. Additionally, the order shall inform the owner that:
    - (i) He may appear at the time stated in the order and present evidence in his behalf or may file a counteraffidavit at or before that time; and
    - (ii) If he fails to appear and present evidence or file a counteraffidavit, the facts in the affidavit supporting the petitioner's claim shall be deemed admitted and a lien may attach to the land or buildings described in the petition.
  - (2) If the owner desires to controvert any statement of fact contained in the affidavit supporting the petitioner's claim, he must file an affidavit in support of his answer showing cause. The failure to file such opposing affidavit shall constitute an admission for the purposes of the proceedings of all statements of fact in the affidavit supporting the petitioner's claim, but shall not constitute an admission that such petition or affidavit in support thereof is legally sufficient.
  - (3) An answer showing cause why a lien should not be established in the amount claimed shall be set down for hearing at the earliest possible time.
- (b) Final order; interlocutory order. --
  - (1) If the pleadings, affidavits and admissions on file, and the evidence, if any, show that there is no genuine dispute as to any material fact and that the lien should attach as a matter of law, then a final order shall be entered establishing the lien for want of any cause shown to the contrary. Further, if it appears that there is no genuine dispute as to any portion of the lien claim, then the validity of that portion shall be established and the action shall proceed only on the disputed amount of the lien claim.
  - (2) If the pleadings, affidavits and admissions on file and the evidence, if any, show that there is no genuine dispute as to any material fact and that the petitioner failed to establish his right to a lien as a matter of law, then a final order shall be entered denying the lien for cause shown.
  - (3) If the court determines from the pleadings, affidavits and admissions on file, and the evidence, if any, that the lien should not attach, or should not attach in the amount claimed, as a matter of law, by any final order, but that there is probable cause to believe the petitioner is entitled to a lien, the court shall enter an interlocutory order which:
    - (i) Establishes the lien;
    - (ii) Describes the boundaries of the land and the buildings to which the lien attaches;

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- (iii) States the amount of the claim for which probable cause is found;
- (iv) Specifies the amount of a bond that the owner may file to have the land and building released from the lien;
- (v) May require the claimant to file a bond in an amount that the court believes sufficient for damages, including reasonable attorney's fees; and
- (vi) Assigns a date for the trial of all the matters at issue in the action, which shall be within a period of six months. The owner or any other person interested in the property, however, may, at any time, move to have the lien established by the interlocutory order modified or dissolved.

- (c) Bond. -- The amount of and the surety on any bond shall be determined and approved pursuant to the Maryland Rules except as set forth in this subtitle. The petitioner, or any other person interested in the property, however, if not satisfied with the sufficiency of a surety or with the amount of any bond given, may, at any time before entry of a final decree, apply to the court for an order requiring an additional bond, and upon notice to the other parties involved, the court may order the giving of such additional bond as it may deem proper. In lieu of filing bond, any party may deposit money in an amount equal to the amount of the bond which would otherwise be required, pursuant to the Maryland Rules.
- (d) Trial on matters at issue. -- Until a final order is entered either establishing or denying the lien, the action shall proceed to trial on all matters at issue, as in the case of any other proceedings in equity.

[1976, ch. 349, § 3; 1989, ch. 5, § 1; 1997, ch. 14, § 1.]

#### **§ 9-107. Attachment of lien to land in another county**

- (a) Filing of documents with clerk. -- If any part of the land is located within another county and the petitioner desires that the lien attach to the land in that county, the petitioner shall file a certified copy of the docket entries, of the court order, and of any required bond with the clerk of the circuit court for that county.
- (b) Time of attachment. -- A lien attaches to the land or building in a county as of the time the documents required to be filed under subsection (a) of this section are filed with the clerk of the circuit court of that county.

[1976, ch. 349, § 3; 2002, ch. 19, § 10.]

#### **§ 9-108. Sale under foreclosure or execution of land against which lien established**

If all or any part of the land or buildings against which a mechanic's lien has been established pursuant to this subtitle shall be sold under foreclosure or a judgment, execution or any other court order, all liens and encumbrances on such property shall be satisfied in accordance with their priority, subject to the limitation in the next sentence of this section. If the proceeds of the sale are insufficient to satisfy all liens established pursuant to this subtitle, then all proceeds available to satisfy each such lien shall be stated by the court auditor as one fund, and the amount to be disbursed to satisfy each lien established pursuant to this subtitle shall bear the same proportion to that fund as the amount of such lien bears to the total amount secured by all such liens, without regard to priority among such liens.

[1976, ch. 349, § 3.]

#### **§ 9-109. Expiration of right to enforce lien**

The right to enforce any lien established under this subtitle expires at the end of one year from the day on which the petition to establish the lien was first filed. During this time the claimant may file a petition in the lien proceedings to enforce the lien or execute on any bond given to obtain a release of the land and building from the lien. If such petition is filed within the one-year period, the right to a lien or the lien, or any bond given to obtain

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a release of lien, shall remain in full force and effect until the conclusion of the enforcement proceedings and thereafter only in accordance with the decree entered in the case.

[1976, ch. 349, § 3.]

#### **§ 9-110. No waiver by giving credit or taking security**

No person having the right to establish a mechanics' lien waives the right by granting a credit, or receiving a note or other security, unless it is received as payment or the lien right is expressly waived.

[An. Code 1957, art. 21, § 9-108; 1974, ch. 12, § 2; 1976, ch. 349, § 3.]

#### **§ 9-111. Right to institute personal action**

Nothing in this subtitle affects the right of any person, to whom any debt is due for work done or material furnished, to maintain any personal action against the owner of the building or any other person liable for the debt.

[An. Code 1957, art. 21, § 9-109; 1974, ch. 12, § 2; 1976, ch. 349, § 2.]

#### **§ 9-112. Subtitle a remedial law; amendment to proceedings**

This law is remedial and shall be so construed to give effect to its purpose. Any amendment shall be made in the proceedings, commencing with the claim or lien to be filed and extending to all subsequent proceedings, as may be necessary and proper. However, the amount of the claim or lien filed may not be enlarged by amendment.

[An. Code 1957, art. 21, § 9-110; 1974, ch. 12, § 2; 1976, ch. 349, § 2.]

#### **§ 9-113. Prohibited provisions in executory contracts**

- (a) In general. -- An executory contract between a contractor and any subcontractor that is related to construction, alteration, or repair of a building, structure, or improvement may not waive or require the subcontractor to waive the right to:
  - (1) Claim a mechanics' lien; or
  - (2) Sue on a contractor's bond.
- (b) Provisions conditioning payment to subcontractor on payment of contractor. -- A provision in an executory contract between a contractor and a subcontractor that is related to construction, alteration, or repair of a building, structure, or improvement and that conditions payment to the subcontractor on receipt by the contractor of payment from the owner or any other third party may not abrogate or waive the right of the subcontractor to:
  - (1) Claim a mechanics' lien; or
  - (2) Sue on a contractor's bond.
- (c) Void provisions. -- Any provision of a contract made in violation of this section is void as against the public policy of this State.

[1981, ch. 756; 1994, ch. 626; 1995, ch. 3, § 1.]

#### **§ 9-114. Releases from material suppliers and subcontractors**

- (a) Signed release of lien. -- At the time of settlement or payment in full between a contractor and an owner, the contractor shall give to the owner a signed release of lien from each material supplier and subcontractor who provided work or materials under the contract.
- (b) Effect of signed release. -- An owner is not subject to a lien and is not otherwise liable for any work or materials included in the release under subsection (a) of this section.

[1982, ch. 251.]

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## SUBTITLE 2.

### TRUST RELATIONSHIPS IN THE CONSTRUCTION INDUSTRY

#### **§ 9-201. Moneys to be held in trust; commingling**

- (a) "Managing agent" defined. -- For the purposes of this subtitle, "managing agent" means an employee of a contractor or subcontractor who is responsible for the direction over or control of money held in trust by the contractor or subcontractor under subsection (b) of this section.
- (b) Money to be held in trust. --
  - (1) Any money paid under a contract by an owner to a contractor, or by the owner or contractor to a subcontractor for work done or materials furnished, or both, for or about a building by any subcontractor, shall be held in trust by the contractor or subcontractor, as trustee, for those subcontractors who did work or furnished materials, or both, for or about the building, for purposes of paying those subcontractors.
  - (2) An officer, director, or managing agent of a contractor or subcontractor who has direction over or control of money held in trust by a contractor or subcontractor under paragraph (1) of this subsection is a trustee for the purpose of paying the money to the subcontractors who are entitled to it.
- (c) Commingling. --
  - (1) Nothing contained in this subtitle shall be construed as requiring money held in trust by a contractor or subcontractor under subsection (b) of this section to be placed in a separate account.
  - (2) If a contractor or subcontractor commingles money held in trust under this section with other money, the mere commingling of the money does not constitute a violation of this subtitle.

[1987, ch. 345; 1988, ch. 6, § 1; 1995, ch. 3, § 22; ch. 436.] [1987, ch. 345; 1988, ch. 6, § 1; 1995, ch. 3, § 22; ch. 436; 2015, ch. 22, § 5.]

#### **§ 9-202. Liability for retention or use of moneys held in trust under § 9-201 of this subtitle.**

Any officer, director, or managing agent of any contractor or subcontractor, who knowingly retains or uses the money held in trust under § 9-201 of this subtitle, or any part thereof, for any purpose other than to pay those subcontractors for whom the money is held in trust, shall be personally liable to any person damaged by the action.

[1987, ch. 345; 1995, ch. 436; 2015, ch. 22, § 5.]

#### **§ 9-203. Misuse of funds prima facie evidence of intent to defraud.**

*Repealed by Acts 1995, ch. 436, effective October 1, 1995.*

#### **§ 9-204. Applicability of subtitle; definitions.**

- (a) In general. -- This subtitle applies to contracts subject to Title 17, Subtitle 1 of the State Finance and Procurement Article, known as the "Maryland Little Miller Act", as well as property subject to § 9-102 of this title.
- (b) Exceptions contracts. -- This subtitle does not apply to:
  - (1) A contract for the designated construction and sale of a single family residential dwelling; or
  - (2) A home improvement contract by a contractor licensed under the Maryland Home Improvement Law.
- (c) Definitions. -- In this subtitle, "owner", "contractor", and "subcontractor" have the same meanings as in § 9-101 of this title.

[1987, ch. 345; 1991, ch. 55, § 1; 1992, ch. 26, § 2.]

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## SUBTITLE 3.

### CONSTRUCTION CONTRACTS

#### **§ 9-301. Definitions**

- (a) In general. -- In this subtitle the following words have the meanings indicated.
- (b) Contract. --
  - (1) "Contract" means an agreement of any kind or nature, express or implied, for doing work or furnishing materials, or both, for or about a building.
  - (2) "Contract" includes an agreement for:
    - (i) The erection, repair, rebuilding, or improvement of a building;
    - (ii) The drilling and installation of wells to supply water;
    - (iii) The construction or installation of any swimming pool or fencing;
    - (iv) The grading, filling, landscaping, and paving of the premises;
    - (v) The installation of waterlines, sanitary sewers, storm drains, or streets; or
    - (vi) The erection, repair, rebuilding, or improvement of a wharf.
- (c) Contractor. -- "Contractor" means a person who has a contract with an owner.
- (d) Owner. -- "Owner" means:
  - (1) The owner of the land; or
  - (2) An owner's tenant for life or for years, provided the tenant enters into the contract with the contractor.
- (e) Subcontractor. --
  - (1) "Subcontractor" means a person who has a contract with anyone except the owner or the owner's agent.
  - (2) "Subcontractor" includes a supplier.
- (f) Undisputed amount. -- "Undisputed amount" means an amount owed on a contract for which there is no good faith dispute, including any retainage withheld.

[1989, ch. 553.]

#### **§ 9-302. Prompt payment.**

- (a) In general; exception. -- Except for work done or materials furnished under a contract enumerated in § 9-305 of this subtitle, a contractor or subcontractor who does work or furnishes material under a contract shall be entitled to prompt payment under subsection (b) of this section.
- (b) Time for payments. --
  - (1) If the contract is with an owner, the owner shall:
    - (i) If the contract does not provide for specific dates or times of payment, pay to the contractor undisputed amounts owed under the terms of the written contract, within the earlier of:
      1. 30 days after the day on which the occupancy permit is granted; or
      2. 30 days after the day on which the owner or the owner's agent takes possession; or
    - (ii) If the contract provides for specific dates or times of payment, pay to the contractor undisputed amounts owed within 7 days after the date or time specified in the contract.

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- (2) Paragraph (1) of this subsection does not apply to any contract between the contractor and:
  - (i) The State;
  - (ii) A county;
  - (iii) A municipal corporation;
  - (iv) A board of education; or
  - (v) A public authority or instrumentality.
- (3) If the contract is not with an owner, the contractor or subcontractor shall pay undisputed amounts owed to its subcontractors within 7 days after receipt by the contractor or subcontractor of each payment received for its subcontractors' work or materials.

[1989, ch. 553; 1990, ch. 486; 2008, ch. 36, § 5.]

### **§ 9-303. Remedies**

- (a) Undisputed amounts. -- In this section, "undisputed amounts" includes any retention proceeds that exceed the amount authorized to be retained under § 9-304 of this subtitle.
- (b) In general. -- In addition to any other remedy provided under any other provision of law, a court of competent jurisdiction, for good cause shown may:
  - (1) Award any equitable relief for prompt payment of undisputed amounts that it considers necessary, including the enjoining of further violations; and
  - (2) In any action, award to the prevailing party:
    - (i) Interest from the date the court determines that the amount owed was due; and
    - (ii) Any reasonable costs incurred.
- (b) Attorneys' fees. -- If a court determines that an owner, contractor, or subcontractor has acted in bad faith by failing to pay any undisputed amounts owed as required under § 9-302 of this subtitle, the court may award to the prevailing party reasonable attorney's fees.

[1989, ch. 553; 2002, ch. 19, § 10; 2019, ch. 382.]

### **§ 9-304. Retention proceeds.**

- (a) "Retention proceeds" defined. -- In this section, "retention proceeds" means money earned but retained under the terms of a contract or subcontract:
  - (1) By an owner to guarantee performance of the contract by a contractor;
  - (2) By a contractor to guarantee performance of a subcontract by a subcontractor; or
  - (3) By a subcontractor to guarantee performance of a subcontract by another subcontractor.
- (b) Applicability of section. -- This section does not apply to:
  - (1) A contract in an amount less than \$100,000; or
  - (2) A contract or subcontract for a project funded wholly or in part by or through the Department of Housing and Community Development.
- (c) Limit of proceeds. -- Except as provided in this section:
  - (1) If a contractor has furnished 100% security to guarantee the performance of a contract and 100% security to guarantee payment for labor and materials, including leased equipment:
    - (i) The retention proceeds under the terms of a contract may not exceed 5% of the contract price; and

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- (ii) The retention proceeds of any payment due under the terms of a contract from an owner to a contractor may not exceed 5% of the payment;
- (2) The retention proceeds of any payment due under the terms of a contract from a contractor to a subcontractor may not exceed the percentage of retention proceeds from the owner to the contractor; and
- (3) The retention proceeds of any payment due under the terms of a contract from a subcontractor to another subcontractor may not exceed the percentage of retention proceeds from the contractor to the subcontractor.

- (d) Withholding of additional amount remains unpaid. -- This section may not be construed to prohibit the withholding of any amount due:
  - (1) From the owner to the contractor if the owner reasonably determines that the contractor's performance under the contract provides reasonable grounds for withholding the additional amount;
  - (2) From the contractor to any subcontractor if the contractor reasonably determines that the subcontractor's performance under the subcontract provides reasonable grounds for withholding the additional amount; or
  - (3) From a subcontractor to another subcontractor if the subcontractor determines that the other subcontractor's performance under the subcontract provides reasonable grounds for withholding the additional amount.
- (e) Payment of undisputed retention proceeds. -- Undisputed retention proceeds retained by an owner under this section shall be paid within 90 days after the date of substantial completion, as defined by the applicable contract or subcontract.

[2008, ch. 390, § 2; 2015, ch. 22, § 5; 2019, ch. 382.]

### **§ 9-305. Exemptions.**

This subtitle does not:

- (1) Affect the rights of contracting parties under Title 9, Subtitle 1 of this article;
- (2) Apply to a contract for the construction and sale of a single family residential dwelling;
- (3) Apply to any transaction under the Custom Home Protection Act, Title 10, Subtitle 5 of this article; and
- (4) Apply to a home improvement contract by a contractor licensed under the Maryland Home Improvement Law.

[1989, ch. 553; 1990, ch. 6, § 2; ch. 486; 1992, ch. 26, § 2; 2008, ch. 390, § 1, 2009, ch. 60, § 5.]