

MARYLAND CONTRACT LIEN ACT

§ 14-201. Definitions. 1

§ 14-202. Creation of Lien by Contract. 1

§ 14-203. Creation of Lien as Result of Breach of Contract. 2

§ 14-204. Enforcement and Foreclosure of Lien. 5

§ 14-205. Exemptions. 6

§ 14-206. Short Title. 6

§14-201. Definitions

(a) In this subtitle the following words have the meanings indicated unless the context requires otherwise.

(b) (1) “Contract” means a real covenant running with the land or a contract recorded among the land records of a county or Baltimore City.

(2) “Contract” includes a:

(i) Declaration or bylaws recorded under the provisions of the Maryland Condominium Act or the Maryland Real Estate Time-Sharing Act; or

(ii) Regulated sustainable energy contract recorded under the provisions of Title 9, Subtitle 20D of the State Government Article.

(c) (1) “Damages” means unpaid sums due under a contract, plus interest accruing on the unpaid sums due under a contract or as provided by law, including fines levied under the Maryland Condominium Act or the Maryland Real Estate Time-Sharing Act.

(2) “Damages” does not include consequential or punitive damages.

(d) “Lien” means a lien created under this subtitle.

(e) “Party” means any person who:

(1) Is a signatory to a contract;

(2) Is described in a contract as having the benefit of any provision of the contract; or

(3) Owns property subject to the provisions of a contract.

(f) “Statement of lien” means the statement described under § 14-203(j) of this subtitle.

§14-202. Creation of Lien by Contract

(a) A lien on property may be created by a contract and enforced under this subtitle if:

(1) The contract expressly provides for the creation of a lien; and

(2) The contract expressly describes:

(i) The party entitled to establish and enforce the lien; and

(ii) The property against which the lien may be imposed.

(b) A lien may only secure the payment of:

(1) Damages;

(2) Costs of collection;

- (3) Late charges permitted by law; and
- (4) Attorney's fees provided for in a contract or awarded by a court for breach of a contract.

§14-203. Creation of Lien as Result of Breach of Contract

(a) (1) A party seeking to create a lien as the result of a breach of contract shall, within 2 years of a breach of contract, give written notice to the party against whose property the lien is intended to be imposed.

(2) Except as provided in paragraph (3) of this subsection, notice under this subsection shall be served by:

(i) Certified or registered mail, return receipt requested, addressed to the owner of the property against which the lien is sought to be imposed at the owner's last known address; or

(ii) Personal delivery to the owner by the party seeking a lien or the party's agent.

(3) If a party seeking to create a lien is unable to serve an owner under paragraph (2) of this subsection, notice under this subsection shall be served by:

(i) The mailing of a notice to the owner's last known address; and

(ii) Posting notice in a conspicuous manner on the property by the party seeking to create a lien or the party's agent in the presence of a competent witness. In the instance of a contractual lien on a building, the notice shall be posted in a conspicuous manner on the door or other front part of the building.

(b) A notice under subsection (a) of this section shall include:

(1) The name and address of the party seeking to create the lien;

(2) A statement of intent to create a lien;

(3) An identification of the contract;

(4) The nature of the alleged breach;

(5) The amount of alleged damages;

(6) A description of the property against which the lien is intended to be imposed sufficient to identify the property, and stating the county or counties in which the property is located; and

(7) A statement that the party against whose property the lien is intended to be imposed has the right to a hearing under subsection (c) of this section.

(c) (1) A party to whom notice is given under subsection (a) of this section may, within 30 days after the notice is served on the party, file a complaint in the circuit court for the county in which any part of the property is located to determine whether probable cause exists for the establishment of a lien.

(2) A complaint filed under this subsection shall include:

(i) The name of the complainant and the name of the party seeking to establish the lien;

(ii) A copy of the notice served under subsection (a) of this section; and

(iii) An affidavit containing a statement of facts that would preclude establishment of the lien for the damages alleged in the notice.

(3) A party filing a complaint under this subsection may request a hearing at which any party may appear to present evidence.

(d) If a complaint is filed, the party seeking to establish the lien has the burden of proof.

(e) The clerk of the circuit court shall docket the proceedings under this section, and all process shall issue out of and all pleadings shall be filed in a single action.

(f) Before any hearing held under subsection (c) of this section, the party seeking to establish a lien may supplement, by means of an affidavit, any information contained in the notice given under subsection (a) of this section.

(g) (1) If a complaint is filed under subsection (c) of this section, the court shall review any pleadings filed, including any supplementary affidavit filed under subsection (f) of this section, and shall conduct a hearing if requested under subsection (c)(3) of this section.

(2) If the court determines that probable cause exists to establish a lien, it shall order the lien imposed.

(3) The order to impose a lien shall state that the owner of the property against which the lien is imposed may file a bond of a specified amount to have the lien against the property removed.

(h) (1) If the court orders a lien to be imposed under subsection (g) of this section, or if the owner of the property against which a lien is intended to be imposed fails to file a complaint under subsection (c) of this section the party seeking to create the lien may file a statement of lien among the land records of each county in which any portion of the property is located.

(2) The party seeking to create the lien may file the lien statement in the county land records:

(i) If a complaint was filed under subsection (c) of this section, 30 days after the date of the court order allowing the creation of the lien; or

(ii) If a complaint was not filed under subsection (c) of this section, 30 days after the owner was served under subsection (a)(2) or (3) of this section.

(3) Unless the party seeking to create the lien and the owner agree otherwise, if the party seeking to create the lien fails to file the lien statement within 90 days after the expiration of the applicable time period described in paragraph (2) of this subsection, the party seeking to create the lien may:

(i) Not file the lien statement in the county land records; and

(ii) File for a new lien by complying with the requirements of subsections (a) through (h) of this section.

(4) A lien imposed under this subtitle has priority from the date the statement of lien is filed.

(5) Until an order imposing a lien is entered by the court, the owner of the property against which the lien is imposed may have the lien removed at any time by filing with the clerk of the circuit court a bond in the amount specified by the court under subsection (g)(3) of this section.

(i) (1) Until an order is entered by the court either establishing or denying a lien, the action shall proceed to trial on any matter at issue.

(2) The court may award costs and reasonable attorney's fees to any party under this subtitle.

(j) (1) Subject to paragraph (2) of this subsection, a statement of lien is sufficient for purposes of this subtitle if it is in substantially the following form:

STATEMENT OF LIEN

This is to certify that the property described as _____ is subject to a lien under Title 14, Subtitle 2 of the Real Property Article, Maryland Annotated Code, in the amount of \$_____. The property is owned by _____.

I hereby affirm under the penalty of perjury that notice was given under § 14- 203(a) of the Real Property Article, and that the information contained in the foregoing statement of lien is true and correct to the best of my knowledge, information, and belief.

(name of party claiming lien)

(2) (i) This paragraph applies only to a lien that is subject to §11-110(f) or § 11B-117(c) of this article.

(ii) In addition to satisfying the requirements of paragraph (1) of this subsection, a statement of lien is sufficient for purposes of this subtitle if the statement includes specific information about the amount of the regular monthly assessments, or the equivalent of the regular monthly assessments, for common expenses in substantially the following form:

The amount of the regular monthly assessments, or the equivalent of the regular monthly assessments, for common expenses, that is the basis of the priority portion of this lien as provided in § 11-110(f) or § 11B-117(c) of the Real Property Article, is \$ _____. This sum represents _____ months of unpaid regular assessments, at \$ _____ per month.

(k) If an order is entered under subsection (i) of this section denying a lien, or if a bond is filed under subsection (h) of this section, the clerk of the circuit court shall enter a notation in the land records releasing the lien.

§14-204. Enforcement and Foreclosure of Lien

(a) Except as provided in subsection (d) of this section, a lien may be enforced and foreclosed by the party who obtained the lien in the same manner, and subject to the same requirements, as the foreclosure of mortgages or deeds of trust on property in this State containing a power of sale or an assent to a decree.

(b) If the owner of property subject to a lien is personally liable for alleged damages, suit for any deficiency following foreclosure may be maintained in the same proceeding, and suit for a monetary judgment for unpaid damages may be maintained without waiving any lien securing the same.

(c) Any action to foreclose a lien shall be brought within 12 years following recordation of the statement of lien.

(d) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Common ownership community” means:

1. A condominium as defined in § 11-101 of this article;

or

2. A homeowners association as defined in § 11B-101 of

this article.

(iii) “Governing body” means a person who has authority to enforce the declaration, articles of incorporation, bylaws, rules, or regulations of a common ownership community.

(2) Notwithstanding the declaration, articles of incorporation, bylaws, rules, or regulations of a common ownership community, a governing body may foreclose on a lien against a unit owner or lot owner only if the damages secured by the lien:

(i) Consist of:

1. Delinquent periodic assessments or special assessments and any interest; and

2. Reasonable costs and attorney's fees directly related to the filing of the lien that do not exceed the amount of the delinquent assessments, excluding any interest; and

(ii) Do not include fines imposed by the governing body or attorney's fees or costs related to recovering the fines.

(3) This subsection does not preclude a governing body from using any other means to enforce a lien against a unit owner or lot owner.

§14-205. Exemptions

The provisions of this subtitle do not apply to land installment contracts or to deeds of trust or mortgages on property in this State.

§14-206. Short Title

This subtitle may be cited as the Maryland Contract Lien Act.