

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1319 Session of
1989

INTRODUCED BY MERRY, HALUSKA, BOYES, TRELLO, OLASZ, VROON,
GIGLIOTTI, CARLSON, ROBINSON, DISTLER, BELFANTI, NAHILL,
TIGUE, FOX, VEON, HERSHEY, MELIO, J. L. WRIGHT, STABACK,
SAURMAN, LINTON, HECKLER, JOHNSON, G. SNYDER, PHILLIPS,
RAYMOND, GAMBLE AND SERAFINI, APRIL 25, 1989

REFERRED TO COMMITTEE ON FINANCE, APRIL 25, 1989

AN ACT

1 Amending the act of August 24, 1963 (P.L.1175, No.497), entitled
2 "An act to codify, amend, revise and consolidate the laws
3 relating to mechanics' liens," further providing for the
4 waiver of mechanics' liens.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 402 of the act of August 24, 1963
8 (P.L.1175, No.497), known as the Mechanics' Lien Law of 1963, is
9 amended to read:

10 Section 402. Waiver by Contractor; Effect on
11 Subcontractor.--(a) A written contract between the owner and
12 contractor, or a separate written instrument signed by the
13 contractor, which provides that no claim shall be filed by
14 anyone, shall be binding; but the only admissible evidence
15 thereof, as against a subcontractor, shall be proof of actual
16 notice thereof to him before any labor or materials were
17 furnished by him; or proof that such contract or separate

1 written instrument was filed in the office of the prothonotary
2 prior to the commencement of the work upon the ground or within
3 ten (10) days after the execution of the principal contract or
4 not less than ten (10) days prior to the contract with the
5 claimant subcontractor, indexed in the name of the contractor as
6 defendant and the owner as plaintiff and also in the name of the
7 contractor as plaintiff and the owner as defendant. The only
8 admissible evidence that such a provision has, notwithstanding
9 its filing, been waived in favor of any subcontractor, shall be
10 a written agreement to that effect signed by all those who,
11 under the contract, have an adverse interest to the
12 subcontractor's allegation.

13 (b) In the case of the alteration and repair of, or the
14 substantial addition to, an existing improvement on property
15 which is the principal residence of the owner thereof, the
16 contractor shall give actual notice to the owner of the normal
17 right of subcontractors to enforce a mechanics' lien should he,
18 the contractor, default in payments to them, and offer to
19 execute a waiver binding upon the subcontractor protecting the
20 owner from such action. Such waiver shall comply with subsection
21 (a) of this section and no contract shall be binding between the
22 contractor and the owner until the owner is in possession of
23 documents substantiating that a valid waiver has been imposed.

24 Section 2. This act shall take effect in 60 days.