

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 726 Session of
2007

INTRODUCED BY BROWNE, WONDERLING, GREENLEAF, BOSCOLA, M. WHITE,
FOLMER, ROBBINS, TOMLINSON, WAUGH AND ORIE, APRIL 9, 2007

REFERRED TO LABOR AND INDUSTRY, APRIL 9, 2007

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
4 definitions and for waiver of lien by claimant.

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

7 Section 1. Section 201(14) and section 401 of the act of
8 August 24, 1963 (P.L.1175, No.497), known as the Mechanics' Lien
9 Law of 1963, amended June 29, 2006 (P.L.210, No.52), are amended
10 to read:

11 Section 201. Definitions.--The following words, terms and
12 phrases when used in this act shall have the meaning ascribed to
13 them in this section, except where the context clearly indicates
14 a different meaning:

15 * * *

16 (14) "Residential [building] property" means property on
17 which there is or will be constructed a residential building not
18 more than three stories in height, not including any basement
19 level, regardless of whether any portion of that basement is at

1 grade level, or which is zoned or otherwise approved for
2 residential development, planned residential development or
3 agricultural use, or for which a residential subdivision or land
4 development plan or planned residential development plan has
5 received preliminary, tentative or final approval pursuant to
6 the act of July 31, 1968 (P.L.805, No.247), known as the
7 "Pennsylvania Municipalities Planning Code."

8 Section 401. Waiver of Lien by Claimant.--

9 (a) Residential [Buildings] Property.

10 [(1)] A contractor or subcontractor may waive his right to
11 file a claim against residential property [for the erection,
12 construction, alteration or repair of a residential building, in
13 which the total contract price between the owner and the
14 contractor is less than one million dollars (\$1,000,000),] by a
15 written instrument signed by him or by any conduct which
16 operates equitably to estop such contractor from filing a claim.

17 [(2) (i) A subcontractor may waive his right to file a
18 claim against property for the erection, construction,
19 alteration or repair of a residential building, in which the
20 total contract price between the owner and the contractor is
21 less than one million dollars (\$1,000,000), by a written
22 instrument signed by him or by any conduct which operates
23 equitably to estop him from filing a claim.

24 (ii) A subcontractor may waive his right to file a claim
25 against the property, irrespective of the contract price between
26 the owner and the contractor, of a residential building by a
27 written instrument signed by him or by any conduct which
28 operates equitably to estop him from filing a claim, provided
29 the contractor has posted a bond guaranteeing payment for labor
30 and materials provided by subcontractors.]

(b) Nonresidential Buildings.

(1) Except as provided in subsection [(a)(1)] (a), a waiver by a contractor of lien rights is against public policy, unlawful and void unless given in consideration for payment for the work, services, materials or equipment provided and only to the extent that such payment is actually received.

(2) Except as provided in subsection [(a)(2)] (a), a waiver by a subcontractor of lien rights is against public policy, unlawful and void, unless given in consideration for payment for the work, services, materials or equipment provided and only to the extent that such payment is actually received, or unless the contractor has posted a bond guaranteeing payment for labor and materials provided by subcontractors.

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