

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 237 Session of
2003

INTRODUCED BY STETLER, BAKER, BELFANTI, BROWNE, CAPPELLI,
CORRIGAN, COY, CURRY, FAIRCHILD, FRANKEL, GORDNER, HARHAI,
HENNESSEY, HESS, JAMES, LAUGHLIN, LEACH, LEWIS, McCALL,
R. MILLER, MUNDY, NAILOR, PRESTON, READSHAW, SAYLOR, SHANER,
B. SMITH, SOLOBAY, STABACK, CRUZ, THOMAS, TIGUE, TURZAI,
VANCE, WALKO, YOUNGBLOOD AND YUDICHAK, FEBRUARY 11, 2003

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 11, 2003

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 waiver
4 by contractor.

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.--

12 (a) General Rule. A written contract between the owner and
13 contractor, or a separate written instrument signed by the
14 contractor, which provides that no claim shall be filed by
15 anyone, shall be binding; but the only admissible evidence
16 thereof, as against a subcontractor, shall be proof of actual
17 notice thereof to him before any labor or materials were

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

14 (b) Electronic Indexing. Notwithstanding the indexing
15 requirements of subsection (a) in offices of the prothonotary in
16 which such a written contract between the owner and contractor
17 or separate written instrument is indexed electronically by
18 means of a computer system or similar system such that the names
19 of the contractor and owner are electronically retrievable
20 regardless of whether the parties are designated as plaintiff or
21 defendant, the contract or separate written instrument filed
22 with the office of the prothonotary under subsection (a) may be
23 indexed in the name of the contractor as defendant and the owner
24 as plaintiff or in the name of the contractor as plaintiff and
25 the owner as defendant.

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