

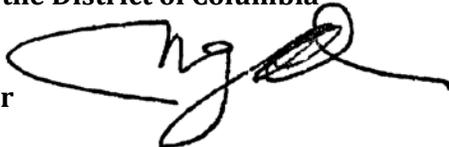
Government of the District of Columbia  
Office of the Chief Financial Officer



**Natwar M. Gandhi**  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Kwame R. Brown  
Chairman, Council of the District of Columbia

**FROM:** Natwar M. Gandhi   
Chief Financial Officer

**DATE:** January 10, 2012

**SUBJECT:** Fiscal Impact Statement – “Mechanic’s Lien Amendment Act of 2012”

**REFERENCE:** Bill 19-489, Draft Committee Print Shared with OCFO on January 6,  
2012

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**Conclusion**

Funds are sufficient in the FY 2012 through FY 2015 budget and financial plan to implement the bill.

**Background**

A mechanic’s lien is a lien claimed on real property by a contractor or subcontractor (“claimant”) performing construction work for the property’s owner, protecting the claimant in a case where labor and supplies are provided yet unpaid. Currently, if a claimant desires to enforce a lien, he or she would file a Notice of Intent with the District’s Recorder of Deeds to record the lien on the property and then file suit in D.C. Superior Court.<sup>1</sup> If the court agrees the claim is valid, the owner would pay into the court the amount being claimed plus costs and interest or file a written undertaking with two or more sureties and the lien would be released.

The bill would amend the D.C. Official Code<sup>2</sup> provisions related to written undertakings filed with the court to release a lien, notice given to a claimant of an owner’s intent to request the lien’s release, and the claimant’s window to file a Notice of Intent to enforce the lien. Specifically, the bill would reduce the required sureties given to the court from two or more to one or more<sup>3</sup> and

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<sup>1</sup> The Notice of Intent must be filed within 90 days after completion or termination of the project and the suit must be filed within 180 days after recording the notice of intent.

<sup>2</sup> D.C. Official Code § 40-301.02(a)(1) and § 40-303.16.

<sup>3</sup> An owner maintains the ability to pay into the court the claimed amount plus interest and costs as directed by the court. Additionally, if a bond is used as the surety, only one is required.

The Honorable Kwame R. Brown

FIS: Bill 19-489 "Mechanic's Lien Amendment Act of 2012," Draft Committee Print Shared with OCFO on January 6, 2012

increase the number of days from two to five an owner must give notice to a claimant of his or her intent to request the lien's release. It would also increase a claimant's window to file a Notice of Intent to anytime during the construction process, but no later than within 90 days of the completion or termination of the project. While mechanic's lien regulations in neighboring jurisdictions vary in their details, the bill's provisions are generally consistent with those jurisdictions.<sup>4</sup>

### **Financial Plan Impact**

Funds are sufficient in the FY 2012 through FY 2015 budget and financial plan to implement the bill. The District's Recorder of Deeds is responsible for receiving a Notice of Intent to enforce a lien and recording it on the property. The bill's proposed changes would not impose any additional costs on the Recorder of Deeds.

D.C. Superior Court currently receives two or more sureties for owners who choose that option, so reducing that to one or more would have no additional fiscal impact.<sup>5</sup>

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<sup>4</sup> The *Construction Law Survival Manual* created by the Mid-Atlantic real estate and construction law firm, Fullerton & Knowles, P.C., provides a comprehensive review of Maryland, Pennsylvania, and Virginia regulations.

<sup>5</sup> The District court system is funded by the federal government.