

No. 2004-96

## AN ACT

HB 237

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

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

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

Section 402. Waiver by Contractor; Effect on Subcontractor.—

(a) **General Rule.** A written contract between the owner and contractor, or a separate written instrument signed by the contractor, which provides that no claim shall be filed by anyone, shall be binding; but the only admissible evidence thereof, as against a subcontractor, shall be proof of actual notice thereof to him before any labor or materials were furnished by him; or proof that such contract or separate written instrument was filed in the office of the prothonotary prior to the commencement of the work upon the ground or within ten (10) days after the execution of the principal contract or not less than ten (10) days prior to the contract with the claimant subcontractor, indexed in the name of the contractor as defendant and the owner as plaintiff and also in the name of the contractor as plaintiff and the owner as defendant. The only admissible evidence that such a provision has, notwithstanding its filing, been waived in favor of any subcontractor, shall be a written agreement to that effect signed by all those who, under the contract, have an adverse interest to the subcontractor's allegation.

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

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

APPROVED—The 8th day of October, A.D. 2004.

EDWARD G. RENDELL