

FIRST REGULAR SESSION

SENATE BILL NO. 477

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Read 1st time February 23, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2252S.02I

AN ACT

To repeal section 429.005, RSMo, and to enact in lieu thereof one new section relating to waiver of liens against real estate.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 429.005, RSMo, is repealed and one new section 2 enacted in lieu thereof, to be known as section 429.005, to read as follows:

429.005. 1. An agreement by an original contractor, subcontractor, 2 supplier or laborer to waive any right to enforce or claim any lien authorized 3 under this chapter, where the agreement is in anticipation of and in consideration 4 for the awarding of a contract or subcontract to perform work or supply materials 5 for an improvement upon real property, whether expressly stated or implied, is 6 against public policy and shall be unenforceable. The provisions of this section 7 shall not prohibit subordination or release of a lien authorized under this chapter.

8 2. Nothing contained in this section shall be construed to prohibit 9 contractual provisions requiring lien waivers as a condition for payment.

10 3. **No oral or written statement purporting to waive, release, 11 subordinate, impair, or otherwise adversely affect any right to enforce 12 or claim any lien authorized under this chapter shall be enforceable 13 unless it is under a waiver and release as prescribed in this section.**

14 4. **Any waiver or release given by any claimant under this 15 section shall be null, void, and unenforceable against such lien claimant 16 unless it waives and releases lien rights and lien claims only to the 17 extent of the amount of the payment actually received by the claimant 18 in exchange for work done up to the point that such waiver or release 19 is granted. A lien waiver that contains the heading "UNCONDITIONAL 20 FINAL LIEN WAIVER" is a complete and absolute waiver of any lien**

21 rights under this chapter on the property described in the lien waiver
22 as of the date the lien waiver is given.

23 5. Notwithstanding any provision of this section to the contrary,
24 claimants shall be permitted to waive a right to assert a mechanic's lien
25 under subsections 25 and 26 of section 429.016 to the extent permitted
26 under such section.

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Unofficial

Bill

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