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HOUSE BILL NO. 855

Offered January 9, 2002

Prefiled January 9, 2002

A BILL to amend and reenact § 43-11 of the Code of Virginia, relating to notices of materialman or laborer liens.

Patron—Albo

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 43-11 of the Code of Virginia is amended and reenacted as follows:**

§ 43-11. How owner or general contractor made personally liable to subcontractor, laborer or materialman.

1. Any subcontractor or person furnishing labor or material to the general contractor or subcontractor, may give a *preliminary* notice in writing to the owner or his agent or the general contractor, stating the nature and character of his contract and the probable amount of his claim; ~~and~~.

2. *Additionally*, if such subcontractor, or person furnishing labor or material shall at any time after the work is done or material furnished by him and before the expiration of thirty days from the time such building or structure is completed or the work thereon otherwise terminated furnish the owner thereof or his agent and also the general contractor, or the general contractor alone in case he is the only one notified, with a *second notice stating* a correct account, verified by affidavit, of his *actual* claim against the general contractor or subcontractor, for work done or materials furnished and of the amount due, *then* the owner, or the general contractor, if he alone was notified, shall be personally liable to the claimant for the *actual* amount due to the subcontractor or persons furnishing labor or material by the general contractor or subcontractor, provided the same does not exceed the sum in which the owner is indebted to the general contractor at the time the *second* notice is given or may thereafter become indebted by virtue of his contract with the general contractor, or in case the general contractor alone is notified the sum in which he is indebted to the subcontractor at the time the *second* notice is given or may thereafter become indebted by virtue of his contract with the general contractor. But the amount which a person supplying labor or material to a subcontractor can claim shall not exceed the amount for which such subcontractor could file his claim.

3. Any bona fide agreement for deductions by the owner because of the failure or refusal of the general contractor to comply with his contract shall be binding upon such subcontractor, laborer or materialman.

4. The provisions of this section are subject to the qualification that before any such personal liability of the owner or general contractor herein provided for shall be binding the ~~notice two notices~~ herein required, with such ~~return~~ *returns* thereon as is sufficient under § 8.01-325, shall be recorded and indexed as provided in § 43-4.1 in the appropriate clerk's office; or the ~~notice two notices~~ herein required shall be mailed by registered or certified mail to and received by the owner or general contractor upon whom personal liability is sought to be imposed, and a return receipt therefor showing delivery to the addressee shall be prima facie evidence of receipt.

INTRODUCED

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