

**PUBLIC HEARING ON
BILL 16-105, “MECHANICS LIEN AMENDMENT ACT
OF 2005”**

**Before the
Committee on Finance and Revenue
Council of the District of Columbia**

The Honorable Jack Evans, Chairman

**March 14, 2005, 10:30 a.m.
Room 120
John A. Wilson Building**



**Testimony of
Daniel L. Black, Jr.
Deputy Chief Financial Officer
Office of Tax and Revenue**

**Natwar M. Gandhi
Chief Financial Officer
Government of the District of Columbia**

Good morning, Chairman Evans and members of the Finance and Revenue Committee. I am Daniel L. Black, Jr., Deputy Chief Financial Officer for the Office of Tax and Revenue, and I am here to present the views of the Office of the Chief Financial Officer (OCFO) on Bill 16-105, the "Mechanic's Lien Amendment Act of 2005."

Bill 16-105 would clarify District requirements for filing a mechanic's lien by contractors on commercial and residential properties; create notice requirements for the filing of these liens; and establish rights and limitations of subcontractors filing mechanic's liens. The legislation also sets forth definitions relating to the new requirements established by Bill 16-105, rules for seeking court judgments on liens, and authority for the Mayor to issue regulations interpreting this new law.

Under Bill 16-105, in order for a contractor to file a mechanic's lien, he or she would be required to record a Notice of Intent to file the lien with the Recorder of Deeds (ROD) within 90 days of the completion or termination of the project, whichever is earlier, for the amount due or to become due, and send a copy of the Notice of Intent to the owner by certified mail within five days after recording of the Notice with ROD. This proposed notice must contain specific information relating to the project subject to the lien, including a copy of the contractor's current license to do business in the District issued by the Department of Consumer and Regulatory Affairs. The notice must also be accompanied by a sworn, notarized statement by the contractor affirming the truth and correctness of the information contained in the notice.

Bill 16-105 further provides that a subcontractor would have the same rights, obligations and limitations as the contractor to file a mechanic's lien. The legislation makes clear, however, that the subcontractor may recover only up to that amount originally owed to him or her by the contractor and is subject to specific pre-existing financial limitations between the owner and the contractor, such as reduction in amounts owed due to breach of contract by the contractor.

Fiscal Impact of Bill 16-105

Enactment of this bill, as determined by the OCFO's Office of Revenue Analysis, would not impact the District's budget and financial plan.

The Office of Tax and Revenue (OTR) has reviewed Bill 16-105 and recommends its passage, as it will clarify for District contractors and subcontractors their ability to seek legal remedies for unpaid amounts due to them. We also have three recommended changes to Bill 16-105 that we believe will help clarify the rights of contractors and subcontractors as they seek to file liens under the proposed law. First, OTR recommends retention of the existing District requirement that requires that lien filers obtain a certificate of good standing under Code section 40-301.02. It is our view that any entity that wishes to avail itself of a legal remedy like lienholdership should be current in District tax payments. Second, we believe that a written contract, or other corroborating evidence of a contractual relationship, should be required in order to file a lien. Such documentation will enable OTR to verify that the party filing the lien has proper standing under the law to seek redress against the owner.

Finally, we would also suggest a provision be added to the legislation to require that a release must be filed by the lienholder with the Recorder of Deeds no later

than 10 days after payment of the debt or court settlement of the original obligation. We believe that a filed release would create a public record that the obligation has been met, so future creditors or purchasers of properties would be assured that the relevant property title is clear and free. OTR would be happy to work with the committee to arrive at mutually agreeable and effective language that satisfies the intent of this recommendation, and that serves the interest of taxpayers and the District.

Thank you, Mr. Chairman, for this opportunity to testify. I am available for any questions you or your fellow councilmembers may have at this time.

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