



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3427

Introduced 2/14/2020, by Sen. Rachelle Crowe

SYNOPSIS AS INTRODUCED:

770 ILCS 60/7
770 ILCS 60/24

from Ch. 82, par. 7
from Ch. 82, par. 24

Amends the Mechanics Lien Act. Provides that no contractor or subcontractor (rather than just a contractor) shall be allowed to enforce a lien against or to the prejudice of any other creditor or incumbrancer or purchaser, unless within 4 months after completion of all work, including extra or additional work under the contractor's contract with the owner (rather than completion or if extra or additional work is delivered within 4 months after the completion of such work), he or she shall either bring an action to enforce his or her lien or shall file in the office of the recorder of the county in which the building, erection, or other improvement to be charged with the lien is situated, a claim for lien, verified by an affidavit. Provides that written notice by a subcontractor shall be due upon the completion of the work under the contractor's contract with the owner.

LRB101 18019 LNS 67457 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Mechanics Lien Act is amended by changing
5 Sections 7 and 24 as follows:

6 (770 ILCS 60/7) (from Ch. 82, par. 7)

7 Sec. 7. Claim for lien; third parties; errors or
8 overcharges; multiple buildings or lots.

9 (a) No contractor or subcontractor shall be allowed to
10 enforce such lien against or to the prejudice of any other
11 creditor or incumbrancer or purchaser, unless within 4 months
12 after completion of all work, including any ~~or if~~ extra or
13 additional work, ~~is done or~~ labor, services, material,
14 fixtures, apparatus or machinery, forms or form work, under the
15 contractor's contract with the owner ~~is delivered therefor~~
16 ~~within 4 months after the completion of such extra or~~
17 ~~additional work or the final delivery of such extra or~~
18 ~~additional labor, services, material, fixtures, apparatus or~~
19 ~~machinery, forms or form work,~~ he or she shall either bring an
20 action to enforce his or her lien therefor or shall file in the
21 office of the recorder of the county in which the building,
22 erection or other improvement to be charged with the lien is
23 situated, a claim for lien, verified by the affidavit of

1 himself or herself, or his or her agent or employee, which
2 shall consist of a brief statement of the claimant's contract,
3 the balance due after allowing all credits, and a sufficiently
4 correct description of the lot, lots or tracts of land to
5 identify the same. Such claim for lien may be filed at any time
6 after the claimant's contract is made, and as to the owner may
7 be filed at any time after the contract is made and within 2
8 years after the completion of the contractor's contract with
9 the owner, including ~~or~~ the completion of any extra work or the
10 furnishing of any extra labor, services, material, fixtures,
11 apparatus or machinery, forms or form work thereunder, and as
12 to such owner may be amended at any time before the final
13 judgment. No such lien shall be defeated to the proper amount
14 thereof because of an error or overcharging on the part of any
15 person claiming a lien therefor under this Act, unless it shall
16 be shown that such error or overcharge is made with intent to
17 defraud; nor shall any such lien for material be defeated
18 because of lack of proof that the material after the delivery
19 thereof, actually entered into the construction of such
20 building or improvement, although it be shown that such
21 material was not actually used in the construction of such
22 building or improvement; provided, that it is shown that such
23 material was delivered either to the owner or his or her agent
24 for that building or improvement, to be used in that building
25 or improvement, or at the place where said building or
26 improvement was being constructed, for the purpose of being

1 used in construction or for the purpose of being employed in
2 the process of construction as a means for assisting in the
3 erection of the building or improvement in what is commonly
4 termed forms or form work where concrete, cement or like
5 material is used, in whole or in part.

6 (b) In case of the construction of a number of buildings
7 under contract between the same parties, it shall be sufficient
8 in order to establish such lien for material, if it be shown
9 that such material was in good faith delivered at one of these
10 buildings for the purpose of being used in the construction of
11 any one or all of such buildings, or delivered to the owner or
12 his or her agent for such buildings, to be used therein; and
13 such lien for such material shall attach to all of said
14 buildings, together with the land upon which the same are being
15 constructed, the same as in a single building or improvement.
16 In the event the contract relates to 2 or more buildings on 2
17 or more lots or tracts of land, then all of these buildings and
18 lots or tracts of land may be included in one statement of
19 claims for a lien.

20 (c) A statement that a party is a subcontractor shall not
21 constitute an admission by the lien claimant that its status is
22 that of subcontractor if it is later determined that the party
23 with whom the lien claimant contracted was the owner or an
24 agent of the owner.

25 (d) A contractor for improvements of an owner-occupied
26 single-family residence must give the owner written notice

1 within 10 days after recording a lien against any property of
2 the owner. The notice is served when it is sent or personally
3 delivered. If timely notice is not given and, as a result, the
4 owner has suffered damages before notice is given, the lien is
5 extinguished to the extent of the damages. The mere recording
6 of the lien claim is not considered damages. This subsection
7 does not apply to subcontractors, and it applies only to
8 contracts entered into after the effective date of this
9 amendatory Act of the 96th General Assembly.

10 (Source: P.A. 96-654, eff. 1-1-10.)

11 (770 ILCS 60/24) (from Ch. 82, par. 24)

12 Sec. 24. Written notice by sub-contractor; service; when
13 notice not necessary; form of notice.

14 (a) Sub-contractors, or parties furnishing labor,
15 materials, fixtures, apparatus, machinery, or services, may at
16 any time after making his or her contract with the contractor,
17 and shall within 90 days after the completion of the work under
18 the contractor's contract with the owner ~~thereof~~, or, if extra
19 or additional work or material is delivered thereafter, within
20 90 days after the date of completion of such extra or
21 additional work or final delivery of such extra or additional
22 material under the contractor's contract with the owner, cause
23 a written notice of his or her claim and the amount due or to
24 become due thereunder, to be sent by registered or certified
25 mail, with return receipt requested, and delivery limited to

1 addressee only, to or personally served on the owner of record
2 or his agent or architect, or the superintendent having charge
3 of the building or improvement and to the lending agency, if
4 known; and such notice shall not be necessary when the sworn
5 statement of the contractor or subcontractor provided for
6 herein shall serve to give the owner notice of the amount due
7 and to whom due, but where such statement is incorrect as to
8 the amount, the subcontractor or material man named shall be
9 protected to the extent of the amount named therein as due or
10 to become due to him or her. For purposes of this Section,
11 notice by registered or certified mail is considered served at
12 the time of its mailing.

13 The form of such notice may be as follows: To (name of
14 owner): You are hereby notified that I have been employed by
15 (the name of contractor) to (state here what was the contract
16 or what was done, or to be done, or what the claim is for) under
17 his or her contract with you, on your property at (here give
18 substantial description of the property) and that there was due
19 to me, or is to become due (as the case may be) therefor, the
20 sum of \$.....

21 Dated at this day of,

22 (Signature).....

23 (b) The serving of notice pursuant to subsection (a) of
24 this Section shall not constitute an admission by the lien
25 claimant that its status is that of subcontractor if it is
26 later determined that the party with whom the lien claimant

1 contracted was the owner or an agent of the owner.

2 (Source: P.A. 94-627, eff. 1-1-06.)