

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 Section 23 as follows:

6 (770 ILCS 60/23) (from Ch. 82, par. 23)

7 Sec. 23. Liens against public funds.

8 (a) For the purpose of this Section "contractor" includes
9 any sub-contractor; "State" includes any department, board or
10 commission thereof, or other person financing and constructing
11 any public improvements for the benefit of the State or any
12 department, board or commission thereof; and "director"
13 includes any chairman or president of any State department,
14 board or commission, or the president or chief executive
15 officer or such other person financing and constructing a
16 public improvement for the benefit of the State.

17 (a-5) For the purpose of this Section, "unit of local
18 government" includes any unit of local government as defined in
19 the Illinois Constitution of 1970, and any entity, other than
20 the State, organized for the purpose of conducting public
21 business pursuant to the Intergovernmental Cooperation Act or
22 the General Not For Profit Corporation Act of 1986, or where a
23 not-for-profit corporation is owned, operated, or controlled

1 by one or more units of local government for the purpose of
2 conducting public business.

3 (b) Any person who shall furnish labor, services, material,
4 ~~apparatus,~~ fixtures, apparatus or machinery, forms or form work
5 ~~labor~~ to any contractor having a contract for public
6 improvement for any county, township, school district, city,
7 municipality, ~~or~~ municipal corporation, or any other unit of
8 local government in this State, shall have a lien for the value
9 thereof on the money, bonds, or warrants due or to become due
10 the contractor having a contract with such county, township,
11 school district, municipality, ~~or~~ municipal corporation, or
12 any other unit of local government in this State under such
13 contract. The lien shall attach only to that portion of the
14 money, bonds, or warrants against which no voucher or other
15 evidence of indebtedness has been issued and delivered to the
16 contractor by or on behalf of the county, township, school
17 district, city, municipality, municipal corporation, or any
18 other unit of local government as the case may be at the time
19 of the notice.

20 (1) No person shall have a lien as provided in this
21 subsection (b) unless ~~Provided,~~ such person shall, before
22 payment or delivery thereof is made to such contractor,
23 notify the clerk or secretary, as the case may be, of the
24 county, township, school district, city, municipality, ~~or~~
25 municipal corporation, or any other unit of local
26 government ~~his claim~~ by a written notice of the claim for

1 lien containing a sworn statement identifying the
2 claimant's contract, describing the work done by the
3 claimant, and stating the total amount due and unpaid as of
4 the date of the notice for the work and furnish a copy of
5 said notice at once to said contractor. The person claiming
6 such lien may cause notification and written notice thereof
7 to be given either by sending the written notice (by
8 registered or certified mail, return receipt requested,
9 with delivery limited to addressee only) to, or by
10 delivering the written notice to the clerk or secretary, as
11 the case may be, of the county, township, school district,
12 city, municipality, ~~or~~ municipal corporation, or any other
13 unit of local government; and the copy of the written
14 notice which the person claiming the lien is to furnish to
15 the contractor may be sent to, or delivered to such
16 contractor in like manner. The notice shall be effective
17 when received or refused by the clerk or secretary, as the
18 case may be, ~~And, provided further, that such lien shall~~
19 ~~attach only to that portion of such money, bonds, or~~
20 ~~warrants against which no voucher or other evidence of~~
21 ~~indebtedness has been issued and delivered to the~~
22 ~~contractor by or on behalf~~ of the county, township, school
23 district, city, municipality, ~~or~~ municipal corporation, or
24 any other unit of local government ~~as the case may be at~~
25 ~~the time of such notice.~~

26 (2) Provided further, that where such person has not so

1 notified the clerk or secretary, as the case may be, of the
2 county, township, school district, city, municipality, ~~or~~
3 municipal corporation, or any other unit of local
4 government of his claim for a lien, upon written demand of
5 the contractor with service by certified mail (return
6 receipt requested) and with a copy filed with the clerk or
7 secretary, as the case may be, that person shall, within 30
8 days, notify the clerk or secretary, as the case may be, of
9 the county, township, school district, city, municipality,
10 ~~or~~ municipal corporation, or any other unit of local
11 government of his claim for a lien by either sending or
12 delivering written notice in like manner as above provided
13 for causing notification and written notice of a claim for
14 lien to be given to such clerk or secretary, as the case
15 may be, or the lien shall be forfeited.

16 (3) No official shall withhold from the contractor
17 money, bonds, warrants, or funds on the basis of a lien
18 forfeited as provided herein.

19 (4) The person so claiming a lien shall, within 90 days
20 after serving ~~giving~~ such notice, commence proceedings by
21 complaint for an accounting, making the contractor having a
22 contract with the county, township, school district, city,
23 municipality, ~~or~~ municipal corporation, or any other unit
24 of local government and the contractor to whom such labor,
25 services, material, ~~apparatus,~~ fixtures, apparatus or
26 machinery, forms or form work ~~labor~~ was furnished, parties

1 defendant, and shall within 10 days after filing the
2 complaint ~~the same period~~ notify the clerk or secretary, as
3 the case may be, of the county, township, school district,
4 city, municipality, ~~or~~ municipal corporation, or any other
5 unit of local government of the commencement of such suit
6 by delivering to him or them a copy of the complaint filed.

7 (5) Failure to commence proceedings by complaint for
8 accounting within 90 days after serving ~~giving~~ notice of
9 lien ~~pursuant to this subsection~~ shall terminate the lien
10 and no subsequent notice of lien may be given for the same
11 claim nor may that claim be asserted in any proceedings
12 pursuant to this Act, provided, however, that failure to
13 file the complaint after notice of the claim for lien shall
14 not preclude a subsequent notice or action for an amount or
15 amounts becoming due to the lien claimant on a date after
16 the prior notice or notices.

17 (6) It shall be the duty of any such clerk or
18 secretary, as the case may be, upon receipt of the first
19 notice herein provided for to cause to be withheld a
20 sufficient amount to pay such claim for the period limited
21 for the filing of suit plus the period for notice to the
22 clerk or secretary of the suit, unless otherwise notified
23 by the person claiming the lien. Upon the expiration of
24 this period the money, bonds or warrants so withheld shall
25 be released for payment to the contractor unless the person
26 claiming the lien shall have instituted proceedings and

1 delivered to the clerk or secretary, as the case may be, of
2 the county, township, school district, city, municipality,
3 ~~or~~ municipal corporation, or any other unit of local
4 government a copy of the complaint as herein provided, in
5 which case, the amount claimed shall be withheld until the
6 final adjudication of the suit is had. Provided, that the
7 clerk or secretary, as the case may be, to whom a copy of
8 the complaint is delivered as herein provided may pay over
9 to the clerk of the court in which such suit is pending a
10 sum sufficient to pay the amount claimed to abide the
11 result of such suit and be distributed by the clerk
12 according to the judgment rendered or other court order.
13 Any payment so made to such claimant or to the clerk of the
14 court shall be a credit on the contract price to be paid to
15 such contractor.

16 (c) Any person who shall furnish labor, services, material,
17 ~~apparatus,~~ fixtures, apparatus or machinery, forms or form work
18 ~~labor~~ to any contractor having a contract for public
19 improvement for the State, may have a lien for the value
20 thereof on the money, bonds or warrants due or about to become
21 due the contractor having a contract with the State under the
22 contract. The lien shall attach to only that portion of the
23 money, bonds or warrants against which no voucher has been
24 issued and delivered by the State.

25 (1) No person or party shall have a lien as
26 provided in this subsection (c) unless such person

1 shall, before payment or delivery thereof is made to
2 the contractor, notify, by giving to the Director or
3 other official, whose duty it is to let such contract,
4 written notice of a ~~his~~ claim for lien containing a
5 sworn statement identifying the claimant's contract,
6 describing the work done by the claimant and stating
7 the total amount due and unpaid as of the date of the
8 notice for the work ~~of the claim showing with~~
9 ~~particularity the several items and the amount claimed~~
10 ~~to be due on each.~~ The claimant shall furnish a copy of
11 said notice at once to the contractor. The person
12 claiming such lien may cause such written notice with
13 sworn statement of the claim to be given either by
14 sending such notice (by registered or certified mail,
15 return receipt requested, with delivery limited to
16 addressee only) to, or by delivering such notice to the
17 Director or other official of the State whose duty it
18 is to let such contract; and the copy of such notice
19 which the person claiming the lien is to furnish to the
20 contractor may be sent to, or delivered to such
21 contractor in like manner. The notice shall be
22 effective when received or refused by the Director or
23 other official whose duty it is to let the contract
24 ~~However, the lien shall attach to only that portion of~~
25 ~~the money, bonds or warrants against which no voucher~~
26 ~~has been issued and delivered by the State.~~

1 (2) Provided, that where such person has not so
2 notified the Director or other official of the State, whose
3 duty it is to let such contract, of his claim for a lien,
4 upon written demand of the contractor, with service by
5 certified mail (return receipt requested) and with a copy
6 filed with such Director or other official of the State,
7 that person shall, within 30 days, notify the Director or
8 other official of the State, whose duty it is to let such
9 contract, of his claim for a lien by either sending or
10 delivering written notice in like manner as above provided
11 for giving written notice with sworn statement of claim to
12 such Director or official, or the lien shall be forfeited.

13 (3) No public official shall withhold from the
14 contractor money, bonds, warrants or funds on the basis of
15 a lien forfeited as provided herein.

16 (4) The person so claiming a lien shall, within 90 days
17 after servicing ~~giving~~ such notice, commence proceedings by
18 complaint for an accounting, making the contractor having a
19 contract with the State and the contractor to whom such
20 labor, services, material, apparatus, fixtures, apparatus
21 or machinery, forms or form work ~~labor~~ was furnished,
22 parties defendant, and shall, within 10 days after filing
23 the suit ~~the same period~~ notify the Director of the
24 commencement of such suit by delivering to him a copy of
25 the complaint filed; provided, if money appropriated by the
26 General Assembly is to be used in connection with the

1 construction of such public improvement, that suit shall be
2 commenced and a copy of the complaint delivered to the
3 Director not less than 15 days before the date when the
4 appropriation from which such money is to be paid, will
5 lapse.

6 (5) Failure to commence proceedings by complaint for
7 accounting within 90 days after servicing ~~giving~~ notice of
8 lien pursuant to this subsection shall terminate the lien
9 and no subsequent notice of lien may be given for the same
10 claim nor may that claim be asserted in any proceedings
11 pursuant to this Act, provided, however, that failure to
12 file suit after notice of a claim for lien shall not
13 preclude a subsequent notice or action for an amount or
14 amounts becoming due to the lien claimant on a date after
15 the prior notice or notices.

16 (6) It shall be the duty of the Director, upon receipt
17 of the written notice with sworn statement as herein
18 provided, to withhold payment of a sum sufficient to pay
19 the amount of such claim, for the period limited for the
20 filing of suit plus the period for the notice to the
21 Director, unless otherwise notified by the person claiming
22 the lien. Upon the expiration of this period the money,
23 bonds, or warrants so withheld shall be released for
24 payment to the contractor unless the person claiming the
25 lien shall have instituted proceedings and delivered to the
26 Director a copy of the complaint as herein provided, in

1 which case, the amount claimed shall be withheld until the
2 final adjudication of the suit is had. Provided, the
3 Director or other official may pay over to the clerk of the
4 court in which such suit is pending, a sum sufficient to
5 pay the amount claimed to abide the result of such suit and
6 be distributed by the clerk according to the judgment
7 rendered or other court order. Any payment so made to such
8 claimant or to the clerk of the court shall be a credit on
9 the contract price to be paid to such contractor.

10 (d) Any officer of the State, county, township, school
11 district, city, municipality, ~~or~~ municipal corporation, or any
12 other unit of local government violating the duty hereby
13 imposed upon him shall be liable on his official bond to the
14 claimant giving notice as provided in this Section for the
15 damages resulting from such violation, which may be recovered
16 in a civil action in the circuit court. There shall be no
17 preference between the persons giving such notice, but all
18 shall be paid pro rata in proportion to the amount due under
19 their respective contracts.

20 (e) In the event a suit to enforce a claim based on a
21 notice of claim for lien is commenced in accordance with this
22 Section, and the suit is subsequently dismissed, the lien for
23 the work claimed under the notice of claim for lien shall
24 terminate 30 days after the effective date of the order
25 dismissing the suit unless the lien claimant shall file a
26 motion to reinstate the suit, a motion to reconsider, or a

1 notice of appeal within the 30 day period. Notwithstanding the
2 foregoing, nothing contained in this Section shall prevent a
3 public body from paying a lien claim in less than 30 days after
4 dismissal.

5 (f) Unless the contract with the State, county, township,
6 school district, city, municipality, municipal corporation, or
7 any other unit of local government otherwise provides, no lien
8 for material shall be defeated because of lack of proof that
9 the material after the delivery thereof, actually entered into
10 the construction of the building or improvement, even if it be
11 shown that the material was not actually used in the
12 construction of the building or improvement so long as it is
13 shown that the material was delivered either (i) to the owner
14 or its agent for that building or improvement, to be used in
15 that building or improvement or (ii) pursuant to the contract,
16 at the place where the building or improvement was being
17 constructed or some other designated place, for the purpose of
18 being used in construction or for the purpose of being employed
19 in the process of construction as a means for assisting in the
20 erection of the building or improvement in what is commonly
21 termed forms or form work where concrete, cement, or like
22 material is used, in whole or in part.

23 (Source: P.A. 87-329.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.