



Sen. Carole Pankau

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LRB095 09738 AJ0 33065 a

1 AMENDMENT TO SENATE BILL 330

2 AMENDMENT NO. _____. Amend Senate Bill 330 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Mechanics Lien Act is amended by changing
5 Section 23 and adding Section 1.2 as follows:

6 (770 ILCS 60/1.2 new)

7 Sec. 1.2. Rental equipment liens. In addition to persons
8 who would otherwise have a lien under this Act, any person,
9 whether contractor or subcontractor, who leases construction
10 equipment to another for use in the process of constructing an
11 improvement to real estate, has a lien for the rental value of
12 the construction equipment to the same extent and in the same
13 manner as provided in this Act for other liens. This Section
14 shall apply only if, and to the extent that, the equipment is
15 used on or about the site of the improvement or is used to haul
16 materials to or from the site. This Section does not apply if

1 the improvement is either a single family residence or a
2 multi-family residence of fewer than 12 units in a single
3 building.

4 (770 ILCS 60/23) (from Ch. 82, par. 23)

5 Sec. 23. Liens against public funds.

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

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

24 (b) Any person who shall furnish labor, services, material,
25 ~~apparatus,~~ fixtures, apparatus or machinery, forms or form work

1 ~~labor~~ to any contractor having a contract for public
2 improvement for any county, township, school district, city,
3 municipality, ~~or~~ municipal corporation, or any other unit of
4 local government in this State, shall have a lien for the value
5 thereof on the money, bonds, or warrants due or to become due
6 the contractor having a contract with such county, township,
7 school district, municipality, ~~or~~ municipal corporation, or
8 any other unit of local government in this State under such
9 contract. The lien shall attach only to that portion of the
10 money, bonds, or warrants against which no voucher or other
11 evidence of indebtedness has been issued and delivered to the
12 contractor by or on behalf of the county, township, school
13 district, city, municipality, municipal corporation, or any
14 other unit of local government as the case may be at the time
15 of the notice.

16 (1) No person shall have a lien as provided in this
17 subsection (b) unless ~~Provided,~~ such person shall, before
18 payment or delivery thereof is made to such contractor,
19 notify the clerk or secretary, as the case may be, of the
20 county, township, school district, city, municipality, ~~or~~
21 municipal corporation, or any other unit of local
22 government ~~his claim~~ by ~~a~~ written notice of the claim for
23 lien containing a sworn statement identifying the
24 claimant's contract, describing the work done by the
25 claimant, and stating the total amount due and unpaid as of
26 the date of the notice for the work and furnish a copy of

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

22 (2) Provided further, that where such person has not so
23 notified 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 of his claim for a lien, upon written demand of

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

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

15 (4) The person so claiming a lien shall, within 90 days
16 after serving ~~giving~~ such notice, commence proceedings by
17 complaint for an accounting, making the contractor having a
18 contract with the county, township, school district, city,
19 municipality, ~~or~~ municipal corporation, or any other unit
20 of local government and the contractor to whom such labor,
21 services, material, ~~apparatus,~~ fixtures, apparatus or
22 machinery, forms or form work ~~labor~~ was furnished, parties
23 defendant, and shall within 10 days after filing the
24 complaint ~~the same period~~ notify the clerk or secretary, as
25 the case may be, of the county, township, school district,
26 city, municipality, ~~or~~ municipal corporation, or any other

1 unit of local government of the commencement of such suit
2 by delivering to him or them a copy of the complaint filed.

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

13 (6) It shall be the duty of any such clerk or
14 secretary, as the case may be, upon receipt of the first
15 notice herein provided for to cause to be withheld a
16 sufficient amount to pay such claim for the period limited
17 for the filing of suit plus the period for notice to the
18 clerk or secretary of the suit, unless otherwise notified
19 by the person claiming the lien. Upon the expiration of
20 this period the money, bonds or warrants so withheld shall
21 be released for payment to the contractor unless the person
22 claiming the lien shall have instituted proceedings and
23 delivered to the clerk or secretary, as the case may be, of
24 the county, township, school district, city, municipality,
25 ~~or~~ municipal corporation, or any other unit of local
26 government 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, that the
3 clerk or secretary, as the case may be, to whom a copy of
4 the complaint is delivered as herein provided may pay over
5 to the clerk of the court in which such suit is pending a
6 sum sufficient to pay the amount claimed to abide the
7 result of such suit and be distributed by the clerk
8 according to the judgment rendered or other court order.
9 Any payment so made to such claimant or to the clerk of the
10 court shall be a credit on the contract price to be paid to
11 such contractor.

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

21 (1) No person or party shall have a lien as
22 provided in this subsection (c) unless such person
23 shall, before payment or delivery thereof is made to
24 the contractor, notify , ~~by giving to~~ the Director or
25 other official, whose duty it is to let such contract,
26 written notice of a his claim for lien containing a

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

23 (2) Provided, that where such person has not so
24 notified the Director or other official of the State, whose
25 duty it is to let such contract, of his claim for a lien,
26 upon written demand of the contractor, with service by

1 certified mail (return receipt requested) and with a copy
2 filed with such Director or other official of the State,
3 that person shall, within 30 days, notify the Director or
4 other official of the State, whose duty it is to let such
5 contract, of his claim for a lien by either sending or
6 delivering written notice in like manner as above provided
7 for giving written notice with sworn statement of claim to
8 such Director or official, or the lien shall be forfeited.

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

12 (4) The person so claiming a lien shall, within 90 days
13 after serving ~~giving~~ such notice, commence proceedings by
14 complaint for an accounting, making the contractor having a
15 contract with the State and the contractor to whom such
16 labor, services, material, apparatus, fixtures, apparatus
17 or machinery, forms or form work ~~labor~~ was furnished,
18 parties defendant, and shall, within 10 days after filing
19 the suit ~~the same period~~ notify the Director of the
20 commencement of such suit by delivering to him a copy of
21 the complaint filed; provided, if money appropriated by the
22 General Assembly is to be used in connection with the
23 construction of such public improvement, that suit shall be
24 commenced and a copy of the complaint delivered to the
25 Director not less than 15 days before the date when the
26 appropriation from which such money is to be paid, will

1 lapse.

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

12 (6) It shall be the duty of the Director, upon receipt
13 of the written notice with sworn statement as herein
14 provided, to withhold payment of a sum sufficient to pay
15 the amount of such claim, for the period limited for the
16 filing of suit plus the period for the notice to the
17 Director, unless otherwise notified by the person claiming
18 the lien. Upon the expiration of this period the money,
19 bonds, or warrants so withheld shall be released for
20 payment to the contractor unless the person claiming the
21 lien shall have instituted proceedings and delivered to the
22 Director a copy of the complaint as herein provided, in
23 which case, the amount claimed shall be withheld until the
24 final adjudication of the suit is had. Provided, the
25 Director or other official may pay over to the clerk of the
26 court in which such suit is pending, a sum sufficient to

1 pay the amount claimed to abide the result of such suit and
2 be distributed by the clerk according to the judgment
3 rendered or other court order. Any payment so made to such
4 claimant or to the clerk of the court shall be a credit on
5 the contract price to be paid to such contractor.

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

16 (e) In the event a suit to enforce a claim based on a
17 notice of claim for lien is commenced in accordance with this
18 Section, and the suit is subsequently dismissed, the lien for
19 the work claimed under the notice of claim for lien shall
20 terminate 30 days after the effective date of the order
21 dismissing the suit unless the lien claimant shall file a
22 motion to reinstate the suit, a motion to reconsider, or a
23 notice of appeal within the 30 day period. Notwithstanding the
24 foregoing, nothing contained in this Section shall prevent a
25 public body from paying a lien claim in less than 30 days after
26 dismissal.

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

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

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."