



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB1092

Introduced 2/11/2009, by Rep. Patrick J Verschoore

#### SYNOPSIS AS INTRODUCED:

770 ILCS 60/1

from Ch. 82, par. 1

Amends the Mechanics Lien Act. Provides that "improve" does not include the furnishing of labor, services, material, fixtures, apparatus or machinery, forms or form work for the erection or improvement of a wind energy device by contract with anyone other than the owner of the lot or tract of land, and further provides that no lien exists under the Act with respect to that lot or tract. Provides that "wind energy device" has the same meaning as that term is defined in the Property Tax Code.

LRB096 06253 AJO 16336 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 Section 1 as follows:

6 (770 ILCS 60/1) (from Ch. 82, par. 1)

7 Sec. 1. Contractor defined; amount of lien; waiver of lien;  
8 attachment of lien; agreement to waive; when not enforceable.

9 (a) Any person who shall by any contract or contracts,  
10 express or implied, or partly expressed or implied, with the  
11 owner of a lot or tract of land, or with one whom the owner has  
12 authorized or knowingly permitted to contract, to improve the  
13 lot or tract of land or for the purpose of improving the tract  
14 of land, or to manage a structure under construction thereon,  
15 is known under this Act as a contractor and has a lien upon the  
16 whole of such lot or tract of land and upon adjoining or  
17 adjacent lots or tracts of land of such owner constituting the  
18 same premises and occupied or used in connection with such lot  
19 or tract of land as a place of residence or business; and in  
20 case the contract relates to 2 or more buildings, on 2 or more  
21 lots or tracts of land, upon all such lots and tracts of land  
22 and improvements thereon for the amount due to him or her for  
23 the material, fixtures, apparatus, machinery, services or

1 labor, and interest at the rate of 10% per annum from the date  
2 the same is due. This lien extends to an estate in fee, for  
3 life, for years, or any other estate or any right of redemption  
4 or other interest that the owner may have in the lot or tract  
5 of land at the time of making such contract or may subsequently  
6 acquire and this lien attaches as of the date of the contract.

7 (b) As used in subsection (a) of this Section, "improve"  
8 means to furnish labor, services, material, fixtures,  
9 apparatus or machinery, forms or form work in the process of  
10 construction where cement, concrete or like material is used  
11 for the purpose of or in the building, altering, repairing or  
12 ornamenting any house or other building, walk or sidewalk,  
13 whether the walk or sidewalk is on the land or bordering  
14 thereon, driveway, fence or improvement or appurtenances to the  
15 lot or tract of land or connected therewith, and upon, over or  
16 under a sidewalk, street or alley adjoining; or fill, sod or  
17 excavate such lot or tract of land, or do landscape work  
18 thereon or therefor; or raise or lower any house thereon or  
19 remove any house thereto, or remove any house or other  
20 structure therefrom, or perform any services or incur any  
21 expense as an architect, structural engineer, professional  
22 engineer, land surveyor or property manager in, for or on a lot  
23 or tract of land for any such purpose; or drill any water well  
24 thereon; or furnish or perform labor or services as  
25 superintendent, time keeper, mechanic, laborer or otherwise,  
26 in the building, altering, repairing or ornamenting of the

1 same; or furnish material, fixtures, apparatus, machinery,  
2 labor or services, forms or form work used in the process of  
3 construction where concrete, cement or like material is used,  
4 or drill any water well on the order of his agent, architect,  
5 structural engineer or superintendent having charge of the  
6 improvements, building, altering, repairing or ornamenting the  
7 same.

8 "Improve" does not include the furnishing of labor,  
9 services, material, fixtures, apparatus or machinery, forms or  
10 form work for the erection or improvement of a wind energy  
11 device by contract with anyone other than the owner of the lot  
12 or tract of land, and no lien exists under this Act with  
13 respect to that lot or tract. A "wind energy device" has the  
14 same meaning as that term is defined in Section 10-600 of the  
15 Property Tax Code.

16 (c) The taking of additional security by the contractor or  
17 sub-contractor is not a waiver of any right of lien which he  
18 may have by virtue of this Act, unless made a waiver by express  
19 agreement of the parties and the waiver is not prohibited by  
20 this Act.

21 (d) An agreement to waive any right to enforce or claim any  
22 lien under this Act where the agreement is in anticipation of  
23 and in consideration for the awarding of a contract or  
24 subcontract, either express or implied, to perform work or  
25 supply materials for an improvement upon real property is  
26 against public policy and unenforceable. This Section does not

1 prohibit release of lien under subsection (b) of Section 35 of  
2 this Act or prohibit subordination of the lien, except as  
3 provided in Section 21.

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