

**SB2073**



**96TH GENERAL ASSEMBLY**

**State of Illinois**

**2009 and 2010**

**SB2073**

Introduced 2/20/2009, by Sen. Pamela J. Althoff

**SYNOPSIS AS INTRODUCED:**

770 ILCS 60/5

from Ch. 82, par. 5

Amends the Mechanics Lien Act. Provides that a contractor must place on the face of a contract a statement that it is important that the property owner read and understand his or her duties to the contractor and any subcontractors the contractor uses. Requires that those duties be included in the contract. Provides that a contractor's failure to include the statement on the face of the contract relieves the owner of the property of any legal obligation to pay any subcontractors.

LRB096 10818 AJO 21038 b

**A BILL FOR**

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 5 as follows:

6 (770 ILCS 60/5) (from Ch. 82, par. 5)

7 Sec. 5. Statement of persons furnishing labor, services,  
8 material, fixtures, apparatus or machinery, forms or form work  
9 notice to owner of waiver; size of type.

10 (a) It shall be the duty of the contractor to give the  
11 owner, and the duty of the owner to require of the contractor,  
12 before the owner or his agent, architect, or superintendent  
13 shall pay or cause to be paid to the contractor or to his order  
14 any moneys or other consideration due or to become due to the  
15 contractor, or make or cause to be made to the contractor any  
16 advancement of any moneys or any other consideration, a  
17 statement in writing, under oath or verified by affidavit, of  
18 the names and addresses of all parties furnishing labor,  
19 services, material, fixtures, apparatus or machinery, forms or  
20 form work and of the amounts due or to become due to each.  
21 Merchants and dealers in materials only shall not be required  
22 to make statements required in this Section.

23 (b) The following shall apply to an owner-occupied

1 single-family residence:

2 (i) Each contractor shall provide the owner or his or  
3 her agent, on the face ~~either as part of the contract or as~~  
4 ~~a separate printed statement given before the owner or his~~  
5 ~~agent makes the first payment for labor, materials,~~  
6 ~~fixtures, apparatus or machinery,~~ the following:

7 "THE LAW REQUIRES THAT THE CONTRACTOR SHALL SUBMIT A  
8 SWORN STATEMENT OF PERSONS OR SUBCONTRACTORS FURNISHING  
9 LABOR, SERVICES, MATERIAL, FIXTURES, APPARATUS OR  
10 MACHINERY, FORMS OR FORM WORK BEFORE ANY PAYMENTS ARE  
11 REQUIRED TO BE MADE TO THE CONTRACTOR."

12 IT IS IMPORTANT THAT YOU READ AND UNDERSTAND THE DUTIES  
13 THAT YOU HAVE AS AN OWNER OF THE PROPERTY TO THE CONTRACTOR  
14 AND TO ANY SUBCONTRACTOR THAT THE CONTRACTOR USES. THESE  
15 DUTIES ARE PRINTED AND INCLUDED IN THIS CONTRACT UNDER THE  
16 HEADING NAMED "PROPERTY OWNER'S DUTIES UNDER THE LAW".

17 If the owners of the property are persons living  
18 together, the aforesaid statement is conclusively presumed  
19 given to each such owners if given to one of them.

20 (ii) Each subcontractor who has furnished, or is  
21 furnishing, labor, services, material, fixtures, apparatus  
22 or machinery, forms or form work in order to preserve his  
23 lien, shall notify the occupant either personally or by  
24 certified mail, return receipt requested, addressed to the  
25 occupant or his agent at the residence within 60 days from  
26 his first furnishing labor, services, material, fixtures,

1 apparatus or machinery, forms or form work, of his  
2 agreement to do so.

3 The notice shall contain the name and address of the  
4 subcontractor or material man, the date he started to work  
5 or to deliver materials, the type of work done and to be  
6 done or the type of labor, services, material, fixtures,  
7 apparatus or machinery, forms or form work delivered and to  
8 be delivered, and the name of the contractor requesting the  
9 work. The notice shall also contain the following warning:

10 "NOTICE TO OWNER

11 The subcontractor providing this notice has performed  
12 work for or delivered material to your home improvement  
13 contractor. These services or materials are being used in  
14 the improvements to your residence and entitle the  
15 subcontractor to file a lien against your residence if the  
16 labor, services, material, fixtures, apparatus or  
17 machinery, forms or form work are not paid for by your home  
18 improvement contractor. A lien waiver will be provided to  
19 your contractor when the subcontractor is paid, and you are  
20 urged to request this waiver from your contractor when  
21 paying for your home improvements."

22 (iii) The statement and the notices required by  
23 subdivisions (b) (i) and (b) (ii) of this Section shall be in  
24 at least 10 point boldface type. For purposes of this  
25 Section, notice by certified mail is considered served at  
26 the time of its mailing. Any notice given pursuant to

1 subdivision (b)(ii) of this Section after 60 days by the  
2 subcontractor, however, shall preserve his or her lien, but  
3 only to the extent that the owner has not been prejudiced  
4 by payments made before receipt of the notice.

5 (iv) The failure of a contractor to include the  
6 statement contained in paragraph (i) on the face of the  
7 contract relieves the owner of the property of any legal  
8 obligation to pay any subcontractors under this Act.

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