



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB1226

Introduced 02/08/11, by Rep. Michael J. Zalewski

#### SYNOPSIS AS INTRODUCED:

30 ILCS 550/2

from Ch. 29, par. 16

Amends the Public Construction Bond Act. Provides that a subcontractor with a claim for labor and material furnished to a political subdivision of the State shall have no right of action unless it has filed notice with the Clerk or Secretary of the political subdivision and with the contractor. In a sentence setting forth the required contents of the claim, provides that a description of the contract, the work done by the subcontractor, and the total amount due and unpaid shall be included. Provides that no action shall be brought later than one year after the date of the furnishing of the last item of work or materials by the subcontractor.

LRB097 08397 PJG 48524 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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

4 Section 5. The Public Construction Bond Act is amended by  
5 changing Section 2 as follows:

6 (30 ILCS 550/2) (from Ch. 29, par. 16)

7 Sec. 2. Every person furnishing material or performing  
8 labor, either as an individual or as a sub-contractor,  
9 hereinafter referred to as Claimant, for any contractor, with  
10 the State, or a political subdivision thereof where bond or  
11 letter of credit shall be executed as provided in this Act,  
12 shall have the right to sue on such bond or letter of credit in  
13 the name of the State, or the political subdivision thereof  
14 entering into such contract, as the case may be, for his use  
15 and benefit, and in such suit the plaintiff shall file a copy  
16 of such bond or letter of credit, certified by the party or  
17 parties in whose charge such bond or letter of credit shall be,  
18 which copy shall, unless execution thereof be denied under  
19 oath, be prima facie evidence of the execution and delivery of  
20 the original; provided, however, that this Act shall not be  
21 taken to in any way make the State, or the political  
22 subdivision thereof entering into such contract, as the case  
23 may be, liable to such sub-contractor, materialman or laborer

1 to any greater extent than it was liable under the law as it  
2 stood before the adoption of this Act.

3 Provided, however, that any Claimant ~~person~~ having a claim  
4 for labor~~7~~ and material furnished to the State as aforesaid  
5 shall have no such right of action unless it ~~he~~ shall have  
6 filed a verified notice of said claim with the officer, board,  
7 bureau or department awarding the contract, within 180 days  
8 after the date of the last item of work or the furnishing of  
9 the last item of materials, and shall have furnished a copy of  
10 such verified notice to the contractor within 10 days of the  
11 filing of the notice with the agency awarding the contract.

12 When any Claimant has a claim for labor and material  
13 furnished to a political subdivision, the Claimant shall have  
14 no right of action unless it shall have filed a verified notice  
15 of that claim with the Clerk or Secretary of the political  
16 subdivision within 180 days after the date of the last item of  
17 work or furnishing of the last item of materials, and shall  
18 have filed a copy of that verified notice upon the contractor  
19 in a like manner as provided herein within 10 days after the  
20 filing of the notice with the Clerk or Secretary.

21 The Claimant may file said verified notice by using  
22 personal service or by depositing the verified notice in the  
23 United States Mail, postage prepaid, certified or restricted  
24 delivery return receipt requested limited to addressee only.

25 The claim shall be verified and shall contain (1) the name  
26 and address of the claimant; the business address of the

1 Claimant ~~claimant~~ within this State and if the Claimant  
2 ~~claimant~~ shall be a foreign corporation having no place of  
3 business within the State, the notice shall state the principal  
4 place of business of said corporation and in the case of a  
5 partnership, the notice shall state the names and residences of  
6 each of the partners; (2) the name of the contractor for the  
7 government; (3) the name of the person, firm or corporation by  
8 whom the Claimant ~~claimant~~ was employed or to whom he or it  
9 furnished materials; (4) ~~the amount of the claim;~~ (5) a brief  
10 description of the public improvement; (5) a description of the  
11 Claimant's contract as it pertains to the public improvement,  
12 describing the work done by the Claimant and stating the total  
13 amount due and unpaid as of the date of verified notice  
14 ~~sufficient for identification.~~

15 No defect in the notice herein provided for shall deprive  
16 the Claimant ~~claimant~~ of his right of action under this article  
17 unless it shall affirmatively appear that such defect has  
18 prejudiced the rights of an interested party asserting the  
19 same.

20 Provided, further, that no action shall be brought later  
21 than one year ~~until the expiration of 120 days~~ after the date  
22 of ~~the last item of work or~~ the furnishing of the last item of  
23 work or materials by the Claimant , ~~except in cases where the~~  
24 ~~final settlement between the officer, board, bureau or~~  
25 ~~department of municipal corporation and the contractor shall~~  
26 ~~have been made prior to the expiration of the 120 day period,~~

1 ~~in which case action may be taken immediately following such~~  
2 ~~final settlement; nor shall any action of any kind be brought~~  
3 ~~later than 6 months after the acceptance by the State or~~  
4 ~~political subdivision thereof of the building project or work.~~

5 Such action shall be brought only in the circuit court of this  
6 State in the judicial circuit in which the contract is to be  
7 performed.

8 The remedy provided in this Section is in addition to and  
9 independent of any other rights and remedies provided at law or  
10 in equity. A waiver of rights under the Mechanics Lien Act  
11 shall not constitute a waiver of rights under this Section  
12 unless specifically stated in the waiver.

13 (Source: P.A. 93-562, eff. 8-20-03.)