

HB5663



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5663

by Rep. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

770 ILCS 60/1

from Ch. 82, par. 1

Amends the Mechanics Lien Act. Provides that the Act does not apply unless there is a written and executed contract to improve the lot or tract of land or for the purpose of improving the tract of land or to manage a structure under construction thereon.

LRB098 18952 HEP 54100 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 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 written and executed
10 contract or contracts, express or implied, or partly expressed
11 or implied, with the owner of a lot or tract of land, or with
12 one whom the owner has authorized or knowingly permitted to
13 contract, to improve the lot or tract of land or for the
14 purpose of improving the tract of land, or to manage a
15 structure under construction thereon, is known under this Act
16 as a contractor and has a lien upon the whole of such lot or
17 tract of land and upon adjoining or adjacent lots or tracts of
18 land of such owner constituting the same premises and occupied
19 or used in connection with such lot or tract of land as a place
20 of residence or business; and in case the contract relates to 2
21 or more buildings, on 2 or more lots or tracts of land, upon
22 all such lots and tracts of land and improvements thereon for
23 the amount due to him or her for the material, fixtures,

1 apparatus, machinery, services or labor, and interest at the
2 rate of 10% per annum from the date the same is due. This lien
3 extends to an estate in fee, for life, for years, or any other
4 estate or any right of redemption or other interest that the
5 owner may have in the lot or tract of land at the time of making
6 such contract or may subsequently acquire and this lien
7 attaches as of the date of the written and executed contract.
8 This Act does not apply unless there is a written and executed
9 contract to improve the lot or tract of land or for the purpose
10 of improving the tract of land or to manage a structure under
11 construction thereon.

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

1 engineer, land surveyor or property manager in, for or on a lot
2 or tract of land for any such purpose; or drill any water well
3 thereon; or furnish or perform labor or services as
4 superintendent, time keeper, mechanic, laborer or otherwise,
5 in the building, altering, repairing or ornamenting of the
6 same; or furnish material, fixtures, apparatus, machinery,
7 labor or services, forms or form work used in the process of
8 construction where concrete, cement or like material is used,
9 or drill any water well on the order of his agent, architect,
10 structural engineer or superintendent having charge of the
11 improvements, building, altering, repairing or ornamenting the
12 same.

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

18 (d) An agreement to waive any right to enforce or claim any
19 lien under this Act where the agreement is in anticipation of
20 and in consideration for the awarding of a contract or
21 subcontract, either express or implied, to perform work or
22 supply materials for an improvement upon real property is
23 against public policy and unenforceable. This Section does not
24 prohibit release of lien under subsection (b) of Section 35 of
25 this Act or prohibit subordination of the lien, except as
26 provided in Section 21.

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