

AN ACT concerning liens.

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

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

(770 ILCS 60/1.2 new)

Sec. 1.2. Rental equipment liens. In addition to persons who would otherwise have a lien under this Act, any person, whether contractor or subcontractor, who leases construction equipment to another for use in the process of constructing a specific improvement to real estate, has a lien for the rental value of the construction equipment to the same extent and in the same manner as provided in this Act for other liens. This Section shall apply only if, and to the extent that, the equipment is used on or about the site of the improvement. This Section does not apply if the improvement is either a single family residence or a multi-family residence of fewer than 12 units in a single building.

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

Sec. 23. Liens against public funds.

(a) For the purpose of this Section "contractor" includes any sub-contractor; "State" includes any department, board or

commission thereof, or other person financing and constructing any public improvements for the benefit of the State or any department, board or commission thereof; and "director" includes any chairman or president of any State department, board or commission, or the president or chief executive officer or such other person financing and constructing a public improvement for the benefit of the State.

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

(b) Any person who shall furnish labor, services, material, apparatus, fixtures, apparatus or machinery, forms or form work ~~labor~~ to any contractor having a contract for public improvement for any county, township, school district, city, municipality, ~~or~~ municipal corporation, or any other unit of local government in this State, shall have a lien for the value thereof on the money, bonds, or warrants due or to become due the contractor having a contract with such county, township, school district, municipality, ~~or~~ municipal corporation, or any other unit of local government in this State under such

contract. The lien shall attach only to that portion of the money, bonds, or warrants against which no voucher or other evidence of indebtedness has been issued and delivered to the contractor by or on behalf of the county, township, school district, city, municipality, municipal corporation, or any other unit of local government as the case may be at the time of the notice.

(1) No person shall have a lien as provided in this subsection (b) unless ~~Provided,~~ such person shall, before payment or delivery thereof is made to such contractor, notify the clerk or secretary, as the case may be, of the county, township, school district, city, municipality, ~~or~~ municipal corporation, or any other unit of local government ~~his claim~~ by ~~a~~ written notice of the claim for lien containing a sworn statement identifying the claimant's contract, describing the work done by the claimant, and stating the total amount due and unpaid as of the date of the notice for the work and furnish a copy of said notice at once to said contractor. The person claiming such lien may cause notification and written notice thereof to be given either by sending the written notice (by registered or certified mail, return receipt requested, with delivery limited to addressee only) to, or by delivering the written notice to the clerk or secretary, as the case may be, of the county, township, school district, city, municipality, ~~or~~ municipal corporation, or any other

unit of local government; and the copy of the written notice which the person claiming the lien is to furnish to the contractor may be sent to, or delivered to such contractor in like manner. The notice shall be effective when received or refused by the clerk or secretary, as the case may be, ~~And, provided further, that such lien shall attach only to that portion of such money, bonds, or warrants against which no voucher or other evidence of indebtedness has been issued and delivered to the contractor by or on behalf of the county, township, school district, city, municipality, or municipal corporation, or any other unit of local government as the case may be at the time of such notice.~~

(2) Provided further, that where such person has not so notified the clerk or secretary, as the case may be, of the county, township, school district, city, municipality, or municipal corporation, or any other unit of local government of his claim for a lien, upon written demand of the contractor with service by certified mail (return receipt requested) and with a copy filed with the clerk or secretary, as the case may be, that person shall, within 30 days, notify the clerk or secretary, as the case may be, of the county, township, school district, city, municipality, ~~or~~ municipal corporation, or any other unit of local government of his claim for a lien by either sending or delivering written notice in like manner as above provided

for causing notification and written notice of a claim for lien to be given to such clerk or secretary, as the case may be, or the lien shall be forfeited.

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

(4) The person so claiming a lien shall, within 90 days after serving ~~giving~~ such notice, commence proceedings by complaint for an accounting, making the contractor having a contract with the county, township, school district, city, municipality, ~~or~~ municipal corporation, or any other unit of local government and the contractor to whom such labor, services, material, apparatus, fixtures, apparatus or machinery, forms or form work ~~labor~~ was furnished, parties defendant, and shall within 10 days after filing the complaint ~~the same period~~ notify the clerk or secretary, as the case may be, of the county, township, school district, city, municipality, ~~or~~ municipal corporation, or any other unit of local government of the commencement of such suit by delivering to him or them a copy of the complaint filed.

(5) Failure to commence proceedings by complaint for accounting within 90 days after serving ~~giving~~ notice of lien ~~pursuant to this subsection~~ shall terminate the lien and no subsequent notice of lien may be given for the same claim nor may that claim be asserted in any proceedings pursuant to this Act, provided, however, that failure to

file the complaint after notice of the claim for lien shall not preclude a subsequent notice or action for an amount or amounts becoming due to the lien claimant on a date after the prior notice or notices.

(6) It shall be the duty of any such clerk or secretary, as the case may be, upon receipt of the first notice herein provided for to cause to be withheld a sufficient amount to pay such claim for the period limited for the filing of suit plus the period for notice to the clerk or secretary of the suit, unless otherwise notified by the person claiming the lien. Upon the expiration of this period the money, bonds or warrants so withheld shall be released for payment to the contractor unless the person claiming the lien shall have instituted proceedings and delivered to the clerk or secretary, as the case may be, of the county, township, school district, city, municipality, ~~or~~ municipal corporation, or any other unit of local government a copy of the complaint as herein provided, in which case, the amount claimed shall be withheld until the final adjudication of the suit is had. Provided, that the clerk or secretary, as the case may be, to whom a copy of the complaint is delivered as herein provided may pay over to the clerk of the court in which such suit is pending a sum sufficient to pay the amount claimed to abide the result of such suit and be distributed by the clerk according to the judgment rendered or other court order.

Any payment so made to such claimant or to the clerk of the court shall be a credit on the contract price to be paid to such contractor.

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

(1) No person or party shall have a lien as provided in this subsection (c) unless such person shall, before payment or delivery thereof is made to the contractor, notify , by giving to the Director or other official, whose duty it is to let such contract, written notice of a his claim for lien containing a sworn statement identifying the claimant's contract, describing the work done by the claimant and stating the total amount due and unpaid as of the date of the notice for the work of the claim showing with particularity the several items and the amount claimed to be due on each. The claimant shall furnish a copy of said notice at once to the contractor. The person claiming such lien may cause such written notice with

sworn statement of the claim to be given either by sending such notice (by registered or certified mail, return receipt requested, with delivery limited to addressee only) to, or by delivering such notice to the Director or other official of the State whose duty it is to let such contract; and the copy of such notice which the person claiming the lien is to furnish to the contractor may be sent to, or delivered to such contractor in like manner. The notice shall be effective when received or refused by the Director or other official whose duty it is to let the contract
~~However, the lien shall attach to only that portion of the money, bonds or warrants against which no voucher has been issued and delivered by the State.~~

(2) Provided, that where such person has not so notified the Director or other official of the State, whose duty it is to let such contract, of his claim for a lien, upon written demand of the contractor, with service by certified mail (return receipt requested) and with a copy filed with such Director or other official of the State, that person shall, within 30 days, notify the Director or other official of the State, whose duty it is to let such contract, of his claim for a lien by either sending or delivering written notice in like manner as above provided for giving written notice with sworn statement of claim to such Director or official, or the lien shall be forfeited.

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

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

(5) Failure to commence proceedings by complaint for accounting within 90 days after serving ~~giving~~ notice of lien pursuant to this subsection shall terminate the lien and no subsequent notice of lien may be given for the same claim nor may that claim be asserted in any proceedings pursuant to this Act, provided, however, that failure to file suit after notice of a claim for lien shall not

preclude a subsequent notice or action for an amount or amounts becoming due to the lien claimant on a date after the prior notice or notices.

(6) It shall be the duty of the Director, upon receipt of the written notice with sworn statement as herein provided, to withhold payment of a sum sufficient to pay the amount of such claim, for the period limited for the filing of suit plus the period for the notice to the Director, unless otherwise notified by the person claiming the lien. Upon the expiration of this period the money, bonds, or warrants so withheld shall be released for payment to the contractor unless the person claiming the lien shall have instituted proceedings and delivered to the Director a copy of the complaint as herein provided, in which case, the amount claimed shall be withheld until the final adjudication of the suit is had. Provided, the Director or other official may pay over to the clerk of the court in which such suit is pending, a sum sufficient to pay the amount claimed to abide the result of such suit and be distributed by the clerk according to the judgment rendered or other court order. Any payment so made to such claimant or to the clerk of the court shall be a credit on the contract price to be paid to such contractor.

(d) Any officer of the State, county, township, school district, city, municipality, ~~or~~ municipal corporation, or any other unit of local government violating the duty hereby

imposed upon him shall be liable on his official bond to the claimant giving notice as provided in this Section for the damages resulting from such violation, which may be recovered in a civil action in the circuit court. There shall be no preference between the persons giving such notice, but all shall be paid pro rata in proportion to the amount due under their respective contracts.

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

(f) Unless the contract with the State, county, township, school district, city, municipality, municipal corporation, or any other unit of local government otherwise provides, no lien for material shall be defeated because of lack of proof that the material after the delivery thereof, actually entered into the construction of the building or improvement, even if it be shown that the material was not actually used in the construction of the building or improvement so long as it is

shown that the material was delivered either (i) to the owner or its agent for that building or improvement, to be used in that building or improvement or (ii) pursuant to the contract, at the place where the building or improvement was being constructed or some other designated place, for the purpose of being used in construction or for the purpose of being employed in the process of construction as a means for assisting in the erection of the building or improvement in what is commonly termed forms or form work where concrete, cement, or like material is used, in whole or in part.

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

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