



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1832

Introduced 2/9/2017, by Sen. John G. Mulroe

SYNOPSIS AS INTRODUCED:

770 ILCS 60/21.03 new

Amends the Mechanics Lien Act. Provides that all moneys withheld as retainage from payments made to any contractor or subcontractor under any construction contract, except those contracts that provide for retainage of 5% or less, shall be held in trust for the benefit of the contractors and subcontractors from whom the retainage has been withheld. Provides that separate records of account shall be kept for each person for whom trust funds are held, and trust funds are not required to be deposited into a separate bank account solely for that purpose as long as trust funds are not expended in a prohibited manner. Provides that any person who knowingly retains or uses the moneys held in trust for any purpose other than to pay those for whom the moneys are held is liable for all damages sustained, including interest at 10% per annum and reasonable attorney's fees.

LRB100 09217 HEP 19373 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 adding
5 Section 21.03 as follows:

6 (770 ILCS 60/21.03 new)

7 Sec. 21.03. Retainage trust.

8 (a) All moneys withheld as retainage from payments made to
9 any contractor or subcontractor under any construction
10 contract, as that term is defined in Section 5 of the
11 Contractor Prompt Payment Act, except those contracts that
12 provide for retainage of 5% or less, shall be held in trust for
13 the benefit of the contractors and subcontractors from whom the
14 retainage has been withheld.

15 (b) Separate records of account shall be kept for each
16 person for whom trust funds are held, but nothing in this
17 Section shall be construed as requiring the deposit of trust
18 funds into a separate bank account solely for that purpose as
19 long as trust funds are not expended in a manner prohibited by
20 this Section.

21 (c) Any person who knowingly retains or uses the moneys
22 held in trust under this Section for any purpose other than to
23 pay those for whom the moneys are held shall be liable to any

1 person who successfully enforces his or her rights under this
2 Section for all damages sustained by that person, including
3 interest at 10% per annum and reasonable attorney's fees.