

1 AN ACT concerning liens.

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 23 and adding Section 1.2 as follows:

6 (770 ILCS 60/1.2 new)

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

19 (770 ILCS 60/23) (from Ch. 82, par. 23)

20 Sec. 23. Liens against public funds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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