

# HB5660



## 99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5660

by Rep. Robert F. Martwick

### SYNOPSIS AS INTRODUCED:

30 ILCS 550/2

from Ch. 29, par. 16

Amends the Public Construction Bond Act. Provides that verified notice shall be deemed filed on the date personal service occurs or the date where the verified notice is mailed in the form and manner provided.

LRB099 18129 MLM 42495 b

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 having a claim for  
4 labor and material furnished to the State shall have no such  
5 right of action unless it shall have filed a verified notice of  
6 said claim with the officer, board, bureau or department  
7 awarding the contract, within 180 days after the date of the  
8 last item of work or the furnishing of the last item of  
9 materials, and shall have furnished a copy of such verified  
10 notice to the contractor within 10 days of the filing of the  
11 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 verified notice shall be deemed filed on the date personal  
26 service occurs or the date where the verified notice is mailed

1 in the form and manner provided in this Section.

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

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

21 Provided, further, that no action shall be brought later  
22 than one year after the date of the furnishing of the last item  
23 of work or materials by the Claimant. Such action shall be  
24 brought only in the circuit court of this State in the judicial  
25 circuit in which the contract is to be performed.

26 The remedy provided in this Section is in addition to and

1 independent of any other rights and remedies provided at law or  
2 in equity. A waiver of rights under the Mechanics Lien Act  
3 shall not constitute a waiver of rights under this Section  
4 unless specifically stated in the waiver.

5 (Source: P.A. 97-487, eff. 1-1-12.)