



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3380

by Rep. Jerry F. Costello, II

SYNOPSIS AS INTRODUCED:

770 ILCS 60/5

from Ch. 82, par. 5

Amends the Mechanics Lien Act. Provides that a statutorily required statement, that the law requires that a contractor submit a sworn statement of persons furnishing labor, services, material, fixtures, apparatus or machinery, forms or form work before any payments are required to be made to the contractor, be provided as part of the contract and as a separate printed statement (instead of "either as part of the contract or as a separate printed statement"). Provides that the contract shall have a space for the contractor and owner to indicate, by initialing, that both parties have read the statement.

LRB099 09694 HEP 29903 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 changing
5 Section 5 as follows:

6 (770 ILCS 60/5) (from Ch. 82, par. 5)

7 Sec. 5. Statement of persons furnishing labor, services,
8 material, fixtures, apparatus or machinery, forms or form work
9 notice to owner of waiver; size of type.

10 (a) It shall be the duty of the contractor to give the
11 owner, and the duty of the owner to require of the contractor,
12 before the owner or his agent, architect, or superintendent
13 shall pay or cause to be paid to the contractor or to his order
14 any moneys or other consideration due or to become due to the
15 contractor, or make or cause to be made to the contractor any
16 advancement of any moneys or any other consideration, a
17 statement in writing, under oath or verified by affidavit, of
18 the names and addresses of all parties furnishing labor,
19 services, material, fixtures, apparatus or machinery, forms or
20 form work and of the amounts due or to become due to each.
21 Merchants and dealers in materials only shall not be required
22 to make statements required in this Section.

23 (b) The following shall apply to an owner-occupied

1 single-family residence:

2 (i) Each contractor shall provide the owner or his or
3 her agent, ~~either~~ as part of the contract and ~~or~~ as a
4 separate printed statement given before the owner or his
5 agent makes the first payment for labor, materials,
6 fixtures, apparatus or machinery, the following:

7 "THE LAW REQUIRES THAT THE CONTRACTOR SHALL SUBMIT A
8 SWORN STATEMENT OF PERSONS FURNISHING LABOR, SERVICES,
9 MATERIAL, FIXTURES, APPARATUS OR MACHINERY, FORMS OR FORM
10 WORK BEFORE ANY PAYMENTS ARE REQUIRED TO BE MADE TO THE
11 CONTRACTOR."

12 The contract shall have a space for the contractor and
13 the owner to indicate, by initialing, that both parties
14 have read the statement required under this paragraph (i).
15 If the owners of the property are persons living together,
16 the aforesaid statement is conclusively presumed given to
17 each such owners if given to one of them.

18 (ii) Each subcontractor who has furnished, or is
19 furnishing, labor, services, material, fixtures, apparatus
20 or machinery, forms or form work in order to preserve his
21 lien, shall notify the occupant either personally or by
22 certified mail, return receipt requested, addressed to the
23 occupant or his agent at the residence within 60 days from
24 his first furnishing labor, services, material, fixtures,
25 apparatus or machinery, forms or form work, of his
26 agreement to do so.

1 The notice shall contain the name and address of the
2 subcontractor or material man, the date he started to work
3 or to deliver materials, the type of work done and to be
4 done or the type of labor, services, material, fixtures,
5 apparatus or machinery, forms or form work delivered and to
6 be delivered, and the name of the contractor requesting the
7 work. The notice shall also contain the following warning:

8 "NOTICE TO OWNER

9 The subcontractor providing this notice has performed
10 work for or delivered material to your home improvement
11 contractor. These services or materials are being used in
12 the improvements to your residence and entitle the
13 subcontractor to file a lien against your residence if the
14 labor, services, material, fixtures, apparatus or
15 machinery, forms or form work are not paid for by your home
16 improvement contractor. A lien waiver will be provided to
17 your contractor when the subcontractor is paid, and you are
18 urged to request this waiver from your contractor when
19 paying for your home improvements."

20 (iii) The statement and the notices required by
21 subdivisions (b) (i) and (b) (ii) of this Section shall be in
22 at least 10 point boldface type. For purposes of this
23 Section, notice by certified mail is considered served at
24 the time of its mailing. Any notice given pursuant to
25 subdivision (b) (ii) of this Section after 60 days by the
26 subcontractor, however, shall preserve his or her lien, but

1 only to the extent that the owner has not been prejudiced
2 by payments made before receipt of the notice.

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