

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1960 Session of 2009

INTRODUCED BY TURZAI, BOYD, BRADFORD, CLYMER, D. COSTA,
CREIGHTON, CUTLER, ELLIS, EVERETT, FRANKEL, GABLER, GINGRICH,
HORNAMAN, KORTZ, LONGIETTI, MAJOR, MILLARD, MILLER, MILNE,
MOUL, MURT, O'NEILL, PASHINSKI, PICKETT, RAPP, ROHRER, ROSS,
SAYLOR, SCAVELLO, SIPTROTH, SWANGER, TALLMAN, R. TAYLOR AND
VULAKOVICH, DECEMBER 4, 2009

REFERRED TO COMMITTEE ON LABOR RELATIONS, DECEMBER 4, 2009

AN ACT

1 Amending the act of August 24, 1963 (P.L.1175, No.497), entitled
2 "An act to codify, amend, revise and consolidate the laws
3 relating to mechanics' liens," further providing for notice
4 and filing requirements.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Sections 501 and 502 of the act of August 24,
8 1963 (P.L.1175, No.497), known as the Mechanics' Lien Law of
9 1963, amended June 29, 2006 (P.L.210, No.52), are amended to
10 read:

11 Section 501. Formal Notice by Subcontractor as Condition
12 Precedent.--

13 (b.1) Time Period of Formal Notice. No claim by a
14 subcontractor, whether for erection or construction or for
15 alterations or repairs, shall be valid unless, at least thirty
16 (30) days before the same is filed, he shall have given to the
17 owner a formal written notice of his intention to file a claim,

except that such notice shall not be required where the claim is filed pursuant to a rule to do so as provided by section 506.

(c) Contents of Formal Notice. The formal notice shall state:

- (1) the name of the party claimant;
- (2) the name of the person with whom he contracted;
- (3) the amount claimed to be due;
- (4) the general nature and character of the labor or materials furnished;
- (5) the date of completion of the work for which his claim is made;
- (6) a brief description sufficient to identify the property claimed to be subject to the lien.

(d) Service of Notice. The notice provided by this section may be served by first class, registered or certified mail on the owner or his agent or by an adult in the same manner as a writ of summons in assumpsit, or if service cannot be so made then by posting upon a conspicuous public part of the improvement.

(e) Commencement.

(1) Owner's Right to File.

(i) Within thirty (30) days following execution of a contract with a contractor, the owner may file with the prothonotary a notice of commencement that does all of the following:

(A) Identifies with reasonable specificity the real property upon which the improvement will be constructed.

(B) Sets forth the name of the contractor, the name of the owner and the address at which the owner may be served with claims and notices pursuant to this act.

1 (ii) The prothonotary shall index the notice of commencement
2 on the construction lien docket in the name of the contractor as
3 plaintiff and in the name of the owner as defendant.

4 (2) Delivery of Notice.

5 (i) The owner must deliver a copy of the notice of
6 commencement to the contractor within seven (7) days after the
7 notice is filed.

8 (ii) Within seven (7) days following receipt of a written
9 request from a subcontractor, the contractor must deliver a copy
10 of the notice of commencement to the requesting party.

11 (f) Furnishing.

12 (1) Service of Notice. If a notice of commencement has been
13 filed under subsection (e), a subcontractor who performs work or
14 services or provides material or equipment in furtherance of an
15 improvement to real property and who wishes to preserve his lien
16 rights must serve a notice of furnishing upon the owner named in
17 the notice of commencement at the address listed in the notice
18 of commencement within the later of:

19 (i) thirty (30) days after the filing of the notice of
20 commencement; or

21 (ii) thirty (30) days after first performing work or
22 services or first providing materials or equipment in connection
23 with the improvement of the real property.

24 (2) Preservation of Rights. A notice of furnishing served
25 within the applicable period under paragraph (1) preserves the
26 subcontractor's lien rights for amounts owing for work and
27 services performed and materials and equipment furnished from
28 the date the work or services were first performed or materials
29 or equipment were first furnished through the date of service of
30 the notice of furnishing and thereafter.

1 (3) Forfeiture of Rights. If a subcontractor fails to serve
2 a notice of furnishing within the applicable period under
3 paragraph (1), the subcontractor shall be deemed to have
4 forfeited its right to file a lien claim.

5 (4) Absence of Notice of Commencement. If the owner fails to
6 file a notice of commencement in accordance with subsection (e),
7 no subcontractor shall be required to serve a notice of
8 furnishing in order to preserve the subcontractor's lien rights.

9 Section 502. Filing and Notice of Filing of Claim.--

10 (a) Perfection of Lien. To perfect a lien, every claimant
11 must:

12 (1) file a claim with the prothonotary as provided by this
13 act within [six (6)] four (4) months after the completion of his
14 work; and

15 (2) serve written notice of such filing upon the owner
16 within one (1) month after filing, giving the court, term and
17 number and date of filing of the claim. An affidavit of service
18 of notice, or the acceptance of service, shall be filed within
19 twenty (20) days after service setting forth the date and manner
20 of service. Failure to serve such notice or to file the
21 affidavit or acceptance of service within the times specified
22 shall be sufficient ground for striking off the claim.

23 (b) Venue; Property in More Than One County. Where the
24 improvement is located in more than one county, the claim may be
25 filed in any one or more of said counties, but shall be
26 effective only as to the part of the property in the county in
27 which it has been filed.

28 (c) Manner of Service. Service of the notice of filing of
29 claim shall be made by an adult in the same manner as a writ of
30 summons in assumpsit, or if service cannot be so made then by

1 posting upon a conspicuous public part of the improvement.

2 Section 2. This act shall apply as follows:

3 (1) The amendment of section 501 of the act shall apply
4 to contracts entered into or renewed on or after the
5 effective date of this paragraph.

6 (2) The amendment of section 502(a)(2) of the act shall
7 apply to claims for work completed on or after the effective
8 date of this paragraph.

9 Section 3. This act shall take effect January 1, 2010.