
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1602 Session of
2011

INTRODUCED BY KILLION, TURZAI, MILLER AND MUSTIO, MAY 25, 2011

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MAY 25, 2011

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 formal
4 notice by subcontractor as condition precedent and for filing
5 and notice of filing of claim.

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

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

12 Section 501. [Formal] Notice [by Subcontractor as Condition
13 Precedent].--

14 (a) Notice of Commencement.

15 (1) Not later than fifteen (15) days after the contractor
16 physically commences work on the property, the owner, agent of
17 the owner or the contractor may file a notice of commencement
18 with the prothonotary of the court of common pleas in the
19 judicial district in which the project is located. The notice
20 must include all of the following:

1 (i) Name, address and telephone number of the contractor.

2 (ii) Name and location of the project being constructed.

3 (iii) Legal description of the property upon which the
4 improvements are being made.

5 (iv) Name and address of the true owner of the property.

6 (v) Name and address of the person other than the owner at
7 whose instance the improvements are being made, if that person
8 is not the true owner of the property.

9 (vi) Name and the address of a surety for the performance
10 and payment bonds.

11 (2) The owner or contractor must conspicuously post a copy
12 of the notice at the project site at the time that physical work
13 commences upon the property.

14 (3) The owner must deliver a copy of the notice of
15 commencement to the contractor within seven (7) days after the
16 notice is filed.

17 (4) The contractor must give a copy of the notice to a
18 subcontractor that makes a written request. If a contractor
19 fails to comply with this paragraph within ten (10) days of
20 receipt of the written request, this section shall not apply to
21 the subcontractor that made the request.

22 (b) Notice of Furnishing. If a notice is filed under
23 subsection (a) (1) and posted under subsection (a) (2), a
24 subcontractor that is not in direct privity with the owner and
25 that performs work or services or provides material or equipment
26 in furtherance of an improvement to property must, as a
27 condition of retaining lien rights under section 301,
28 substantially comply with all of the following to file a notice
29 of furnishing:

30 (1) Subject to paragraph (4) (ii), the subcontractor must

1 serve the notice upon the owner within twenty (20) days after
2 first performing work or services or first providing materials
3 or equipment in connection with the improvement of the property.

4 (2) The notice must be served in one of the following
5 manners:

6 (i) Certified mail to owner's address.

7 (ii) Personal delivery to the owner. Evidence of delivery
8 must be an acknowledgment signed by the owner.

9 (3) The notice must contain, at a minimum, the following:

10 (i) A general description of the labor, skill, materials,
11 fixtures, machinery or tools furnished and the estimated price.

12 (ii) Name and address of the person supplying items in
13 subparagraph (i).

14 (iii) Name and address of the person that contracted for the
15 items in subparagraph (i).

16 (iv) A description sufficient to identify the property which
17 is being improved.

18 (3) Notice must be substantially in the following form:

19 Notice of Furnishing

20 (For use in connection with improvements to property other
21 than public improvements)

22 TO: _____

23 (Name of owner)

24 _____

25 (Address of owner)

26 Please take notice that the undersigned is performing

27 certain work or labor or furnishing certain materials

28 to _____ (Name and address of other contracting

29 party) in connection with the improvement to the real property

30 located at _____ . The labor, work or materials

1 were performed or furnished first, or will be furnished first on
2 (date).

3 WARNING TO OWNER: THIS NOTICE IS REQUIRED BY THE PENNSYLVANIA
4 MECHANICS' LIEN LAW. IF YOU HAVE ANY QUESTIONS ABOUT YOUR RIGHTS
5 OR DUTIES UNDER THESE STATUTES YOU SHOULD SEEK LEGAL ASSISTANCE
6 TO PROTECT YOU FROM THE POSSIBILITY OF PAYING TWICE FOR
7 IMPROVEMENTS TO YOUR PROPERTY.

8 _____
9 (Name and Address of Lien Claimant

10 By
11 (Name and capacity of party signing for lien claimant)

12 _____
13 (Address of Signing Party)

14 _____
15 (Date)

16 (4) Filing of a notice under this subsection preserves the
17 lien rights of a subcontractor in compliance with this act as
18 follows:

19 (i) For amounts owing for work and services performed and
20 materials and equipment furnished from the date the work or
21 services were first performed or materials or equipment were
22 first furnished through the date of service of the notice of
23 furnishing and thereafter.

24 (ii) A notice delivered outside the time frame under
25 paragraph (1) preserves the right to file a lien which is only
26 enforceable for the services or materials furnished within the
27 period of twenty (20) days before the date on which notice is
28 given.

29 (5) If a subcontractor does not substantially comply with
30 this subsection, the subcontractor forfeits the right to file a

1 lien claim.

2 (b.1) Time Period of Formal Notice. No claim by a
3 subcontractor, whether for erection or construction or for
4 alterations or repairs, shall be valid unless, at least thirty
5 (30) days before the same is filed, he shall have given to the
6 owner a formal written notice of his intention to file a claim,
7 except that such notice shall not be required where the claim is
8 filed pursuant to a rule to do so as provided by section 506.

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

11 (1) the name of the party claimant;

12 (2) the name of the person with whom he contracted;

13 (3) the amount claimed to be due;

14 (4) the general nature and character of the labor or
15 materials furnished;

16 (5) the date of completion of the work for which his claim
17 is made;

18 (6) a brief description sufficient to identify the property
19 claimed to be subject to the lien.

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

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

27 (a) Perfection of Lien. To perfect a lien, every claimant
28 must:

29 (1) file a claim with the prothonotary as provided by this
30 act within [six (6)] four (4) months after the completion of his

1 work; and

2 (2) serve written notice of such filing upon the owner
3 within one (1) month after filing, giving the court, term and
4 number and date of filing of the claim. An affidavit of service
5 of notice, or the acceptance of service, shall be filed within
6 twenty (20) days after service setting forth the date and manner
7 of service. Failure to serve such notice or to file the
8 affidavit or acceptance of service within the times specified
9 shall be sufficient ground for striking off the claim.

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

15 (c) Manner of Service. Service of the notice of filing of
16 claim shall be made by an adult in the same manner as a writ of
17 summons in assumpsit, or if service cannot be so made then by
18 posting upon a conspicuous public part of the improvement.

19 Section 2. This act shall apply as follows:

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

23 (2) The amendment of section 502(a)(1) of the act shall
24 apply to claims for work completed on or after the effective
25 date of this paragraph.

26 Section 3. This act shall take effect January 1, 2012.