VOTE YES ON SB 3427 – Senator Crowe

SB 3427 amends Sections 7 and 24 of the Illinois Mechanics Lien Act (770 ILCS 60/1). These sections of the Act describe the requirements for contractors and subcontractors to perfect their mechanics liens if they are not paid for work performed on Illinois real property. Both contractors and subcontractors must record a claim for mechanics lien within four months of the date they last worked on a project to enforce a lien against other parties who have an interest in the property. Additionally, subcontractors, but not contractors, must serve a notice on the property owner within 90 days of the subcontractors’ last date of furnishing labor or materials. Currently, contractors and subcontractors are treated differently by the law, in that the 90 day notice and four month recording periods for subcontractors often expires well before the construction project is complete.

Issue:

Subcontractors are frequently faced with the choice of either sending a lien notice and recording a claim for lien early in the project, or letting the periods lapse and losing their lien rights. Retainage payments are usually held until project completion and the processing of change orders is often delayed. The time periods a subcontractor has to perfect their mechanics lien claim often expire before full payment is received for retainage and change orders. Most subcontractors prefer not to antagonize the owner by filing an early lien claim. As a result, they often end up waiving their lien rights and are left with no leverage for getting paid for work completed in the event there are payment issues on the project. A mechanics lien is the only leverage a contractor or subcontractor has to ensure payment is received for work completed.

Solution:

SB 3427 proposes to extend the time periods for subcontractors to perfect their lien rights to match those now afforded to general contractors. SB 3427 would create a beneficial change to the Mechanics Lien Act and would enhance the ability of Illinois subcontractors to be paid for the labor and materials they furnish to enhance Illinois real estate. We ask for your support and a “yes” vote on SB 3427.

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