



SUBSTANCE

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ILLINOIS LEGISLATURE MAKES NOTICE OF MECHANICS LIEN EASIER

- By James T. Rohlfing

The Illinois legislature has expanded the methods for delivering notice of a subcontractor's mechanics lien claim to include services such as Federal Express and UPS, in recognition of changes over the last few decades in how businesses, government bodies and individuals communicate among one another. HB 4660 passed both chambers of the Illinois legislature as of May 28, 2024 and is on its way to the Governor for signature. It expands the means of serving notice of a lien, and cleans up unnecessary duplication in sections 5 and 21 of the Illinois Mechanics Lien Act, 735 ILCS 60/0.01 et seq. (the "Act").

Currently, to enforce a mechanics lien for nonpayment, an Illinois subcontractor must serve a notice of intent to lien within 90 days from when that subcontractor last provided materials or worked on the construction project, in addition to meeting the other requirements for a lien under the Act. Section 24 of the Act describes the notice requirements, including, what must be included in the notice, to whom it must be provided, and how the notice must be served on those entitled to notice. Currently, service of notice can be accomplished by:

1. Registered or certified mail, with return receipt requested and limited to addressee only; or
2. Personal service on the owner, agent, or architect and the lending agency, if known.

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Personal service is usually impractical and service by certified mail, return receipt requested is cumbersome and often fails because the Postal Service for a myriad of reasons, is unable or otherwise fails to obtain a signed receipt for the delivered item. Many intended recipients refuse to sign or are unavailable. As national delivery services, such as Federal Express and UPS have become ubiquitous over the last few decades, laws governing notice requirements in many jurisdictions have been modernized to permit service of notices by such delivery services.

Following that trend, HB 4660 now provides that a notice of lien under the Act may be served by a “nationally recognized delivery company with tracking service.” Permitting service through a nationally recognized delivery company will ease the burden on subcontractors who must comply with the existing stringent requirement or lose their lien rights. The proposed law would also increase the likelihood that property owners will be aware of lien claims and, sharply reduce the number of mechanics liens found unenforceable because the Postal Service was unable to obtain a

signature on a green card receipt. The proposed method of service is consistent with modern business practices for delivering papers of all kinds when tracking delivery of a notice is important. The proposed amendment to the Mechanics Lien Act provides a more effective and efficient means to effect service of notices of mechanics liens for the benefit of subcontractors as well as those who are entitled to receive the notice. The proponent of the new measure, the Illinois Mechanical & Specialty Contractors Association (“IMSCA”) is hopeful that Governor Pritzker will sign the bill into law. ■

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age of 18, but the base wage for tipped employees will remain \$8.40 per hour. The minimum wage will continue to be subject to annual adjustments, with exceptions if the unemployment rate in Cook County reaches 8.5 percent.

The Cook County minimum wage remains below the Chicago minimum wage, which currently sits at \$15.00 per hour for businesses with 4-20 employees and \$15.80 for businesses with 21 or more employees. Note, however, the Chicago minimum wage will also increase on July 1, 2024 to correspond with the Consumer Price Index or 2.5 percent, whichever is lower. The new Chicago minimum wage has not yet been announced.

Failure to pay employees the new minimum wage could lead to an

investigation by the Cook County Human Rights Commission, not to mention lawsuits by aggrieved employees. Therefore, affected employers should timely update their payroll systems to reflect the new minimum wage rates.

With these three significant changes quickly approaching, it is important for Chicago employers to act now to update policies, train staff, and adjust payroll systems.

If you have any questions regarding these three key employment laws and how they may impact your company, or if you would like assistance in updating your policies, please reach out to the author or your regular Saul Ewing LLP attorney. Please note: Summer Associate, Alexandria Wilson, contributed to the writing of this article. ■