

MCA
Summary of Legislation
June 2006

Mechanic's Lien Bill Poised For Senate Vote

While there are no guarantees when it comes to future legislative activity, all signs point to a vote by the full Senate on a bill to reform the Pennsylvania Mechanic's Lien law. House Bill 1637 greatly improves the law by prohibiting the waiver of liens by contractors and subcontractors except under specific circumstances. The only times a lien could be waived would be on residential projects worth less than \$1 million, or if there is a payment bond covering the job, subcontractors could waive their lien right. The bill also eliminates the preliminary notice of lien and expands the definition of subcontractor to include 2nd tier subs.

The bill represents months of lobbying and negotiations with legislators and other special interests groups. In enacted, it would represent a colossal victory for the construction industry. All members are strongly encouraged to contact their state senators to urge their support of House Bill 1637. A vote is likely to occur in the Senate before the end of June.

Legislative Activity

HB 248 RE: Highway Maintenance Payments (by Rep. Dick Hess, et al)
Amends Title 75 (Vehicles) by deleting provisions providing for legislative review of State highway transfers. The bill adds that annual maintenance payments would be at the rate of \$4,000 per mile (increased from \$2,500) for each highway or portion of highway transferred under Chapter 92, section 222 of the State Highway Law.

Passed House, 3/6/2006 (195-0)

Reported as amended from Senate Transportation Committee, and read first time, 6/7/2006

Rereferred to Senate Appropriations Committee, 6/12/2006

HB 496 RE: Destruction of Survey Monuments (by Rep. Sue Cornell, et al)
Amends Title 18 (Crimes and Offenses) making it a summary offense to intentionally cut, injure, damage, destroy, deface or remove any survey monument or marker and a misdemeanor of the second degree to willfully or maliciously cut, injure, etc. a survey monument or marker in order to call into question a boundary line. Violators would be liable for the cost of the re-establishment of permanent survey monuments or markers by a professional land surveyor and all reasonable attorney fees. The bill states it is an affirmative defense to any prosecution for an offense under this section that the survey monument or marker was improperly placed by a professional land surveyor.

Passed House, 11/21/2005 (194-0)

Reported as amended from Senate Judiciary Committee, and read first time, 6/13/2006

HB 1108 RE: Water and Wastewater System Connection Funding Program (by Rep. Carole Rubley, et al)
Amends the Pennsylvania Infrastructure Investment Authority Act establishing the Water and Wastewater System Connection Funding Program to authorize financial assistance in the form of grants and low-interest loans to homeowners for tapping or facilities extension fees and eligible costs relating to the installation of a water or wastewater lateral for homes constructed prior to the installation of a publicly or privately owned water distribution system or a publicly or privately owned wastewater collection system servicing the property or relating to the replacement of water or wastewater laterals to housing units as part of an upgrading or reconstruction of a publicly or privately owned water distribution system or publicly or privately owned wastewater collection system. To be eligible for the program, an applicant must be an owner-occupier of a housing unit and any of the following exist: (1) the housing unit is served by a publicly or privately owned water or wastewater system; (2) the owner-occupier is required to replace private water or wastewater laterals as part of an upgrading or reconstruction of a publicly or privately owned water or wastewater system; (3) the owner of the real property into which the property lateral will be installed is the owner of the housing unit located thereon. Loans would be provided under the program if the applicant's household income does not exceed the statewide median household income and grants would be

provided to applicants whose household income does not exceed, by 50%, the most recent Federal poverty guidelines. Grants and loans would be made out of the Water and Wastewater System Connection Funding Program Fund, into which \$5,000,000 would be transferred from the Pennsylvania Infrastructure Investment Bond Authorization Fund. Additionally, if the balance of the Water and Wastewater System Connection Funding Program Fund exceeds \$15,000,000, the Board would suspend the annual transfer of funds until it determines that additional program funding is needed to meet program demand and the board may transfer any amount in excess of \$7,000,000 to the PA Infrastructure Investment Bond Authorization Fund. The legislation also makes several editorial changes.

Passed House, 6/29/2005 (198-0)

Reported as amended from Senate Environmental Resources and Energy Committee, and read first time, 6/13/2006

HB 1637 RE: Mechanics' Lien Law (by Rep. George Kenney, et al)

Amends the Mechanics' Lien Law by adding "residential building" to the definitions section. The bill also adds that a contractor or subcontractor may waive his right to file a claim against property on which there is a residential building by a written instrument signed by him or by any conduct which operates equitably to estop such contractor or subcontractor from filing a claim. Also a written contract between the owner of property on which there is a residential building and a contractor, or a separate written instrument signed by the contractor, which provides that no claim may be filed by anyone, would be binding but the only admissible evidence thereof, as against a subcontractor, would be proof of actual notice to him before any labor or materials were furnished by him; or proof that such contract or separate written instrument was filed in the office of the prothonotary prior to the commencement of the work upon the ground or within ten days after the execution of the principal contract or not less than ten days prior to the contract with the claimant subcontractor. The bill further provides the only admissible evidence that such a provision has, notwithstanding its filing, been waived in favor of the subcontractor, would be a written agreement to that effect signed by all those who, under the contract, have an adverse interest to the subcontractor's allegation. Finally, it provides for priority of lien.

Amended on House floor and passed House, 2/8/2006 (191-0)

Read second time, 6/13/2006

HB 2468 RE: Highway Capital Budget Project Itemization Act (by Rep. Matthew Good, et al)

Provides for an itemization of public highway projects for the fiscal year 2005-2006.

Passed House, 5/2/2006 (198-0)

Reported as amended from Senate Transportation Committee, and read first time, 6/7/2006

Read second time, and rereferred to Senate Appropriations Committee, 6/12/2006

SB 655 RE: Use of Title of "Engineer" (by Sen. Roger Madigan, et al)

Amends the Engineer, Land Surveyor and Geologist Registration Law by adding that the title "engineer" may only be used by an individual licensed as a professional engineer unless the individual is a locomotive engineer, an operating engineer, a project engineer in the construction industry, or an individual who is not offering engineering services or engaged in the practice of engineering as defined by law. The bill also provides for continuing professional engineering competency requirements by stating that each in-state and out-of-state engineering licensee would be required to meet certain continuing professional competency requirements as a condition for licensure renewal. Continuing professional competency obtained by an engineering licensee should maintain, improve or expand skills and knowledge obtained prior to initial licensure or develop new and relevant skills and knowledge. Also, the bill states that each engineering licensee would be required to obtain 24 PDH units during the biannual renewal period. If an engineering licensee exceeds the requirement in any renewal period, a maximum of 12 PDH units may be carried forward into the subsequent renewal period.

Reported as amended from Senate Appropriations Committee, 6/5/2006

Read second time, 6/13/2006

SB 1046 RE: Swimming Pool Barriers (by Sen. Bob Mellow, et al)

Amends the PA Construction Code Act by adding that regulations must require an owner or lessee of a residential swimming pool, hot tub or spa to secure the structure with a barrier that has a locking device to prevent access to the structure when it is not in use; and utilize the locking device when the pool, hot tub or spa is not in use.

Read second time, 6/6/2006

Laid on the table, and removed from the table, 6/7/2006

Amended on Senate floor, 6/13/2006

SB 1104 RE: One Call System (by Sen. Tommy Tomlinson, et al)

Amends the Underground Utility Line Protection Law further providing for the title of the act, for definitions, for

duties of facility owners and for the duties of the One Call System; providing for liability, fees and governance of the One Call System; further providing for applicability; providing for the duties of project owners and for rights of the Auditor General; further providing for the governing board of the One Call System, for fines and penalties and for applicability to certain pipeline systems and facilities; providing for a voluntary payment dispute resolution process, for best efforts, for removal or tampering with a marking, for determination of position and type of lines and for impairment of rights and immunities; further providing for expiration; repealing provisions of the Propane and Liquefied Petroleum Gas Act, concerning the prohibition of certain liquefied petroleum gas facilities or distributors from being subject to the Underground Utility Line Protection Law; and making an editorial change.
Reported as amended from Senate Appropriations Committee, 6/5/2006

New Bills Introduced

HB 2696 RE: Uniform Construction Code Review Commission (by Rep. Dave Steil, et al)

Amends the Pennsylvania Construction Code Act establishing the Uniform Construction Code Review Commission, which would gather information from the general public, including municipal officers, licensed design professionals, builders and property owners concerning proposed alterations of the Uniform Construction Code. This information would be evaluated in order to propose recommendations to the Governor and the Labor and Industry Committees of the House and Senate.

Referred to House State Government Committee, 6/5/2006

HB 2725 RE: Small Business Health Care Tax Credit

Amends the Tax Reform Code providing for a small business health care tax credit of up to 50% of the amount spent by a small business for providing health care benefits to its employees, but no more than \$1,000 per employee receiving health care benefits. The bill also provides for reporting requirements to the Legislature concerning the effectiveness of the credit provided.

Referred to House Finance Committee, 6/7/2006

HB 2726 RE: Plumbing Contractors Licensure Act (by Rep. Tom Gannon, et al)

Provides for plumbing contractor licensure, establishes the State Board of Plumbing Contractors and provides for their powers and duties, and establishes fees, fines and civil penalties. The State Board of Plumbing Contractors within the Department of State would be created and charged with various duties including regulating the licensing of individuals engaged in providing plumbing services, contracting with a professional testing organization to administer tests to qualified applicants for licensure, maintaining a registry of licensees and ensuring various reporting requirements are met. Individuals who are not licensed could not provide plumbing services and only master plumbers could use the title "licensed plumbing contractor" and the abbreviation "L.P.C.", subject to certain exceptions. Qualifications for various classes of plumbers are further provided for under the act as are disciplinary options. Reciprocity with other states is also provided for subject to certain conditions. The sum of \$85,000 would be appropriated from the Professional Licensure Augmentation Account to the Department of State for the payment of costs associated with this bill. This amount would have to be repaid by the board within three years of the beginning of issuance of licenses.

Referred to House Professional Licensure Committee, 6/7/2006

HB 2727 RE: Professional Painters Licensure Act (by Rep. Tom Gannon, et al)

Provides for licensure for professional painters; establishes the State Board of Professional Painters and provides for their powers and duties; establishes fees, fines, and civil penalties; and makes an appropriation. The State Board of Professional Painters would be created within the Department of State and charged with various duties including regulating the licensing of individuals engaged in providing painting services, contracting with a professional testing organization to administer tests to qualified applicants for licensure, maintaining a registry of licensees and ensuring various reporting requirements are met. Individuals who are not licensed could not provide painting services and business entities could only use the title the term "professional painter" or "professional painting contractor" in connection with the entity if at least one employee or the owner of the entity is licensed as a professional painter. Only licensed individuals could use the title "licensed professional painter" or "professional painting contractor" and the abbreviation "L.P.P." or "P.P.C." Qualifications for various classes of painters are further provided for under the act as are disciplinary options. Reciprocity with other states is also provided for subject to certain conditions. The sum of \$85,000 would be appropriated from the Professional Licensure Augmentation Account to the Department of State for the payment of costs associated with this bill. This amount would have to be repaid by the board within three years of the beginning of issuance of licenses.

Referred to House Professional Licensure Committee, 6/7/2006

HB 2752 RE: Stormwater Management (by Rep. Doug Reichley, et al)

Amends the PA Municipalities Planning Code by adding that the contents of a subdivision and land development ordinance may include provisions for insuring an assessment of the potential impact of storm water runoff quantity, velocity and quality; and provisions to encourage the development of reasonably necessary methods to manage storm water runoff to mitigate any potential adverse impacts.

Referred to House Local Government Committee, 6/13/2006

HB 2756 RE: Construction Lien Act (by Rep. Bob Allen, et al)

Prohibits certain liens and claims against real property; provide for entitlement to liens for certain contractors, subcontractors, sub-subcontractors and suppliers; provides for notices, for filing, service, attachment of and procedures to enforce lien claims, for forfeiture of lien rights, for priority of mortgages over construction liens, for discharge of lien claims and for bond or security in favor of lien claimants; prohibits waivers of construction liens under certain circumstances; impose duties on prothonotaries; provides for procedure to obtain judgment, for appeals, for revival of judgments and for execution on judgment; and repeals the Mechanics' Lien Act.

Referred to House Labor Relations Committee, 6/13/2006

H Res. 788 RE: Building Safety Week" By Rep. Gene McGill, et al)

Resolution designating the week of May 7 through 13, 2006, as "Building Safety Week" in Pennsylvania.

Introduced as noncontroversial and adopted, 6/12/2006

Upcoming Meetings of Interest

Remaining 2006 HOUSE Spring Session Schedule

June 19, 20, 21, 26, 27, 28, 29, 30

Remaining 2006 SENATE Spring Session Schedule

June 19, 20, 21, 22 (non-voting), 26, 27, 28, 29, 30

Fall Session Schedule has not yet been released

Copies of all bills of interest can be accessed via the Internet at:

<http://www.legis.state.pa.us/WU01/LI/BI/billroom.htm>.