

State of Illinois)
)
County of _____)

Illinois Mechanics Lien Sworn Statement
pursuant to Sections 5 and 22 of the Illinois Mechanics Lien Act
made by contractor or sub at demand of owner

WHEREFORE, Section 5 of the Illinois Mechanics Lien Act requires that a construction participant having an agreement directly with the owner of the property shall provide, "a statement in writing, under oath or verified by affidavit, of the names and addresses of all parties furnishing materials and labor and of the amounts due or to become due to each;"

WHEREFORE, Section 22 of the Illinois Mechanics Lien Act requires that a construction participant having an agreement with someone other than the owner of the property shall provide, "as often as requested in writing by the owner, or contractor, or the agent of either, make out and give to such owner, contractor or agent, a statement of the persons furnishing material and labor, giving their names and how much, if anything, is due or to become due to each of them, and which statement shall be made under oath if required;"

WHEREFORE, the Company has provided labor and/or materials to a construction project occurring at the Subject Property;

WHEREFORE, the Owner (or the agent of the Owner) of the Subject Property has, pursuant to statute, demanded of the Company, a sworn statement compliant with said Section 5 or 22, and the Company wishes to provide same;

WHEREFORE, the "Subject Property" is the following:

Street Address: _____

City, State, ZIP: _____

PIN: _____

(attach legal description if available)

Initials:

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This document comes with detailed instructions attached.
Instructions, information about mechanics liens, and updated
mechanics lien forms are available for free on the Web at
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SWORN STATEMENT (SECTIONS 5 & 22)

Illinois Mechanics Lien Sworn Statement
Sections 5 & 22(continuation)

	Name and Address of sub or supplier	Amount Due (or to become due)	Notes
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

<p>Initials:</p> <p>Page ____ of ____</p>
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 SWORN STATEMENT (SECTIONS 5 & 22)

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Illinois Mechanics Liens

prevention before litigation

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License for Use of This Mechanics Lien Form:

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Which Form to Use:

The Sworn Statement form should be used during the course of all construction projects, and in particular should be demanded and obtained by the property owner prior to each payment. The architect, construction manager, or the like may perform this service, but owners should be aware that these agents also usually have their own lien rights, and should also submit sworn statements on their own behalf. If subcontractors are required to provide sworn statements (optional under Section 22), these should be collected and kept by both the general contractor and the property owner. Use of the sworn statement is a matter of course and is not an indication that a dispute is present or expected. However, if a dispute is anticipated, these forms retain (or increase) in significance. This form is drafted to meet the statutory obligations of all participants, whether submitting a form under Section 5 (original contractors) or Section 22 (subcontractors). Waiver forms should ideally be exchanged when a check is handed over, and are in addition to, not instead of, the Sworn Statement form, which comes before payment is tendered.

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Legal basis for requiring this sworn statement:

Section 5 of the Illinois Mechanics Lien Act provides (in pertinent part): "It shall be the duty of the contractor to give the owner, and the duty of the owner to require of the contractor, before the owner or his agent, architect, or superintendent shall pay or cause to be paid to the contractor or to his order any moneys or other consideration due or to become due to the contractor, or make or cause to be made to the contractor any advancement of any moneys or any other consideration, a statement in writing, under oath or verified by affidavit, of the names and addresses of all parties furnishing materials and labor and of the amounts due or to become due to each. Merchants and dealers in materials only shall not be required to make statements required in this Section." 770 ILCS 60/5

Section 22 of the Illinois Mechanics Lien Act provides (in pertinent part): "Any sub-contractor shall, as often as requested in writing by the owner, or contractor, or the agent of either, make out and give to such owner, contractor or agent, a statement of the persons furnishing material and labor, giving their names and how much, if anything, is due or to become due to each of them, and which statement shall be made under oath if required." 770 ILCS 60/22

Variations From Other Proprietary Forms

Many entities, in particular title companies acting as escrow agents, use proprietary forms that demand extensive information beyond that required by statute. Disclosing this additional information may be negotiated as part of the contract, but is not automatic without such a contract provision requiring it. However, Section 5 of the Illinois Mechanics Lien Act, (above) requires exactly three items as to each subcontractor: Name, address, and amount due or to become due. Section 22 (above) requires only two items as to each sub-sub: Name and amount due or to become due. The American Institute of Architects (AIA) provides forms intended for similar purposes. These forms have been reviewed by Illinois courts and found lacking with regard to mechanics lien claims. AIA forms may be used if desired, but are not substitutes for forms dealing directly with Illinois mechanics lien claims.

General Cautions:

The Sworn Statement form has significant legal effects for all involved. It is likely to destroy significant rights to payment that the lien claimant may have, but may not be sufficient to completely absolve the property owner of all liability. This form also includes a statement, sworn under oath, that the

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recitations in the document are true. Falsehoods sworn under oath could result in the signer being charged with forgery or perjury, both of which are felonies that carry significant fines and prison sentences. Because specific information relating to your project has not been reviewed in preparing these general instructions, this document does not constitute legal advice. Consulting with an attorney before signing or accepting the attached form is strongly recommended.

Specific Information to be Completed:

1. Page one, top ("County of.."): Fill in the name of the county where the document will be signed and notarized. The state may be changed if signed out of Illinois; check with an attorney familiar with notarization in that state.
2. Page one, bottom ("Subject Property"): Common street address including unit number if a condominium, plus city, street, and ZIP code, should be included.
3. Page one, bottom ("Subject Property"): PIN refers to the Permanent Index Number used by many counties in the State of Illinois to identify separate parcels of land. Caution with the PIN and legal description (below) is advisable, since this is sworn under oath. Ideally, this information will be provided by the owner on the affidavit of the owner to the contractor.
4. Page one, bottom ("Subject Property"): Although not necessarily required for legal effect, best practice calls for the legal description of the property to be included in a sworn statement. These are available from the county Recorder of Deeds, or through any title search company.
5. Page one, bottom ("Initials, Page ___ of ___"): To protect against the addition of pages not authorized by the affiant, each page should be numbered and initialed, including any exhibits such as a legal description. This continues through every page of the document.
6. Page two, top ("Owner or agent of Owner"): Ideally, the contractor or sub knows the identity of the property owner, and will be able to enter the proper information. Under the statute, only an owner or the owner's agent may request the sworn statement. If the owner is not known and cannot be ascertained, information on the individual who claims to be the owner's agent should be entered here.
7. Page two, top ("Company"): This is the name of the contractor or subcontractor, and will in many cases be a corporation, LLC, or the like. If an individual is operating under a "DBA," that should be fully stated here.

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8. Page two, middle ("Affiant"): This is the individual person who signs the document on behalf of the Company. Unlike the information regarding the Company, this will never be a corporation but rather the individual acting for the corporation. See #10 below regarding the effect of the signature.
9. Page two, bottom ("Attestation"): Fill in the county where the document is being signed. See #1 above for out-of-state signing.
10. Page two, bottom ("Attestation"): THE SIGNATURE REPRESENTS UNDER OATH THAT EVERYTHING STATED IN THE DOCUMENT IS TRUE. The person signing must be an individual, regardless of whether the lien claimant was by an individual or a corporation. This form should not be signed by an attorney, unless that attorney is prepared to be deposed on the truth of the statements, disclose in discovery the sources of information, and to be prosecuted for forgery if the statements prove to be false.
11. Page two, bottom ("Attestation"): Have the document properly dated and notarized by a notary authorized in the location of signing.
12. Page three, column one ("Name and Address"): Sections 5 and 22 both require listing the name of the subcontractor or supplier; Section 22 (for statements submitted by subcontractors) does not expressly require an address, but may be included at the option of the affiant.
13. Page three, column two ("Amount due or to become due"): This is the amount remaining under the contract as of the date signed. Thus, if the total contract as it stands at that time is \$10,000.00 (including any extras), the amount paid already is \$6,000.00, this column shows the remainder, or \$4,000.00. The statute does not require disclosure of the full contract amount, or of the amount paid to date. Remember that a sworn statement is prior to payment, and would thus not include a payment expected thereafter. In contrast, a waiver form is usually made at the time of payment and would normally include the payment for which it is exchanged.
14. Page three, column three ("Notes"): The affiant is free to provide additional information not required by statute, such as the nature of the work, retention, or otherwise.
15. Multiple copies of page three may be utilized if the list of subs and suppliers exceeds the twelve spaces available on a single sheet. As stated in #5 above, care should be taken to initial and number each page to prevent the addition of pages not reviewed by the affiant.
16. Be sure to check the website noted below for updated forms and other relevant information.

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