

STATE OF NEW YORK

4840

2025-2026 Regular Sessions

IN SENATE

February 13, 2025

Introduced by Sen. FAHY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the lien law, in relation to requiring a surety bond for contractors and subcontractors where no public fund has been established for the financing of a public improvement

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 5 of the lien law, as amended by chapter 155 of the
2 laws of 2004, is amended to read as follows:

3 § 5. Liens under contracts for public improvements. A person perform-
4 ing labor for or furnishing materials to a contractor, [~~his or her~~]
5 their subcontractor or legal representative, for the construction or
6 demolition of a public improvement pursuant to a contract by such
7 contractor with the state or a public corporation, and any trust fund to
8 which benefits and wage supplements are due or payable for the benefit
9 of such person performing labor, shall have a lien for the principal and
10 interest of the value or agreed price of such labor, including benefits
11 and wage supplements due or payable for the benefit of any person
12 performing labor, or materials upon the moneys of the state or of such
13 corporation applicable to the construction or demolition of such
14 improvement, to the extent of the amount due or to become due on such
15 contract, and under a judgment of the court of claims awarded to the
16 contractor for damages arising from the breach of such contract by the
17 state, or awarded for furnishing labor or materials not contemplated by
18 the provisions of said contract, upon filing a notice of lien as
19 prescribed in this article, except as hereinafter in this article
20 provided. Where no public fund has been established for the financing of
21 a public improvement with estimated cost in excess of two hundred fifty
22 thousand dollars, the chief financial officer of the public owner shall
23 require the private entity for whom the public improvement is being made
24 to post, or cause to be posted, a surety bond issued by a surety duly

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

LBD09174-01-5

1 licensed in the state of New York or [~~other form of undertaking~~] an
2 irrevocable letter of credit, in an amount equal to the cost of the
3 construction work guaranteeing prompt payment of moneys due to the
4 contractor, [~~his or her~~] their subcontractors and to all persons
5 furnishing labor or materials to the contractor or [~~his or her~~] their
6 subcontractors in the prosecution of the work on the public improvement.
7 § 2. This act shall take effect immediately and shall apply to
8 contracts entered into on or after such effective date.