

CHAPTER 250**(HB 259)**

AN ACT relating to mechanics' liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.250 is amended to read as follows:

- (1) When an attested copy of the lien statement and proof of the delivery of an attested copy as provided in KRS 376.240 is delivered to any public authority which has contracted for the construction or improvement of any bridge, public highway, or other public property owned by the state, a subdivision or agency thereof, or by any city, county, urban-county, or charter county government, the public authority shall endorse on the attested copy the date of its receipt, file the copy and deduct and withhold the amount thereof, plus \$1.25 to cover the fee of the county clerk for filing the statement and attesting a copy, from any amount then due the contractor, and if a sufficient amount is not then due the contractor from the next payments which become due.
- (2) Unless the contractor, within thirty (30) days from the date of the delivery of the attested copy, files with the public authority a written protest putting in issue the correctness of the amount due the lien claimant or the liability of the fund for payment thereof, the amount withheld shall be paid by the public authority to the lien claimant and charged to the account of the contractor, which payment shall operate as a pro tanto release of the public authority from any claim of the contractor under the contract for the amount so paid. The filing in the county clerk's office of the statement of lien provided for in subsection (2) of KRS 376.230 shall be constructive notice to the contractor of the filing of the claim.
- (3) If the contractor files a written protest as provided in subsection (2) of this section, the public authority with whom the protest is filed shall endorse thereon the date of its receipt. ***The public authority shall promptly send written notice of the protest to the lien claimant by certified mail, return receipt requested***~~[,]~~ and shall not pay over to the lien claimant any of the money withheld from the contractor until authorized to do so by the contractor or until directed to do so by an order or judgment of court.
- (4) If suit is not instituted by the lien claimant for the enforcement of the lien and summons in the suit is not served on the public authority or its chairman within thirty (30) days after the ***written notice of the protest is mailed to the claimant***~~[filing by the contractor of the protest]~~, then the lien shall automatically be released and the funds withheld pursuant to the filing of the lien statement shall be released and promptly paid to the contractor. If suit is filed and summons served within the time provided, the payment of the funds shall be withheld until ordered to be released or paid over by an order or judgment of the court, and then paid as directed by the order or judgment.
- (5) All suits for the enforcement of these liens on public funds shall be instituted in the Circuit Court of the county in which is located the property on which the improvement is made, except where the property is owned by a public university. Where the property is owned by a public university, the suit shall be instituted in the Circuit Court of the county in which is located the main campus of the public university. This court shall have exclusive jurisdiction for the enforcement of liens asserted against the public funds due the contractors, subject to the same rights of appeal as in other civil cases.

SECTION 2. A NEW SECTION OF KRS 376.195 TO 376.260 IS CREATED TO READ AS FOLLOWS:

- (1) Any person contracting with the public authority for the furnishing of any improvements or services for which a lien is created by KRS 376.210 may, at any time before a judgment is rendered enforcing the lien, execute before the county clerk in the county in which the lien was filed a bond for double the amount of the lien claimed.*
- (2) The bond executed under subsection (1) of this section shall be subject to the following conditions:*
 - (a) The bond shall be approved by the clerk only if the bond is secured by:*
 - 1. Cash;*
 - 2. A letter of credit from a bank; or*
 - 3. Surety insurance as defined by KRS 304.5-060 that is issued by a licensed insurer; and*
 - (b) The bond shall require that the obligor satisfy any judgment that may be rendered in favor of the person asserting the lien.*
- (3) The bond shall be preserved by the clerk, and upon its execution, the lien provided by KRS 376.210 shall be discharged.*
- (4) The person asserting the lien may make the obligors in the bond parties to any action to enforce his claim, and any judgment received may be against any of the obligors on the bond.*

Approved March 31, 2000

