



## Senate

General Assembly

February Session, 2000

**File No. 206**

Senate Bill No. 550

*Senate, March 23, 2000*

The Committee on Judiciary reported through SEN. WILLIAMS of the 29<sup>th</sup> Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

### ***An Act Concerning Protection For Equipment Rental.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 49-42 of the general statutes is repealed and the following is  
2 substituted in lieu thereof:

3 (a) Any person who performed work or supplied materials for which  
4 a requisition was submitted to, or for which an estimate was prepared  
5 by, the awarding authority and who does not receive full payment for  
6 such work or materials within sixty days of the applicable payment date  
7 provided for in subsection (a) of section 49-41a, or any person who  
8 supplied materials or performed subcontracting work not included on a  
9 requisition or estimate who has not received full payment for such  
10 materials or work within sixty days after the date such materials were  
11 supplied or such work was performed, may enforce his right to payment  
12 under the bond by serving a notice of claim on the surety that issued the  
13 bond and a copy of such notice to the contractor named as principal in  
14 the bond within one hundred eighty days of the applicable payment date

15 provided for in subsection (a) of section 49-41a, or, in the case of a person  
16 supplying materials or performing subcontracting work not included on  
17 a requisition or estimate, within one hundred eighty days after the date  
18 such materials were supplied or such work was performed. The notice of  
19 claim shall state with substantial accuracy the amount claimed and the  
20 name of the party for whom the work was performed or to whom the  
21 materials were supplied, and shall provide a detailed description of the  
22 bonded project for which the work or materials were provided. If the  
23 content of a notice prepared in accordance with subsection (b) of section  
24 49-41a complies with the requirements of this section, a copy of such  
25 notice, served within one hundred eighty days of the payment date  
26 provided for in subsection (a) of section 49-41a upon the surety that  
27 issued the bond and upon the contractor named as principal in the bond,  
28 shall satisfy the notice requirements of this section. Within ninety days  
29 after service of the notice of claim, the surety shall make payment under  
30 the bond and satisfy the claim, or any portion of the claim which is not  
31 subject to a good faith dispute, and shall serve a notice on the claimant  
32 denying liability for any unpaid portion of the claim. The notices  
33 required under this section shall be served by registered or certified mail,  
34 postage prepaid in envelopes addressed to any office at which the  
35 surety, principal or claimant conducts his business, or in any manner in  
36 which civil process may be served. If the surety denies liability on the  
37 claim, or any portion thereof, the claimant may bring action upon the  
38 payment bond in the Superior Court for such sums and prosecute the  
39 action to final execution and judgment. An action to recover on a  
40 payment bond under this section shall be privileged with respect to  
41 assignment for trial. The court shall not consolidate for trial any action  
42 brought under this section with any other action brought on the same  
43 bond unless the court finds that a substantial portion of the evidence to  
44 be adduced, other than the fact that the claims sought to be consolidated  
45 arise under the same general contract, is common to such actions and  
46 that consolidation will not result in excessive delays to any claimant  
47 whose action was instituted at a time significantly prior to the motion to

48 consolidate. In any such proceeding, the court judgment shall award the  
49 prevailing party the costs for bringing such proceeding and allow  
50 interest at the rate of interest specified in the labor or materials contract  
51 under which the claim arises or, if no such interest rate is specified, at the  
52 rate of interest as provided in section 37-3a upon the amount recovered,  
53 computed from the date of service of the notice of claim, provided, for  
54 any portion of the claim which the court finds was due and payable after  
55 the date of service of the notice of claim, such interest shall be computed  
56 from the date such portion became due and payable. The court judgment  
57 may award reasonable attorneys fees to either party if upon reviewing  
58 the entire record, it appears that either the original claim, the surety's  
59 denial of liability, or the defense interposed to the claim is without  
60 substantial basis in fact or law. Any person having direct contractual  
61 relationship with a subcontractor but no contractual relationship express  
62 or implied with the contractor furnishing the payment bond shall have a  
63 right of action upon the payment bond upon giving written notice of  
64 claim as provided in this section.

65 (b) Every suit instituted under this section shall be brought in the  
66 name of the person suing, in the superior court for the judicial district  
67 where the contract was to be performed, irrespective of the amount in  
68 controversy in the suit, but no such suit may be commenced after the  
69 expiration of one year after the applicable payment date provided for in  
70 subsection (a) of section 49-41a, or, in the case of a person supplying  
71 materials or performing subcontracting work not included on a  
72 requisition or estimate, no such suit may be commenced after the  
73 expiration of one year after the date such materials were supplied or  
74 such work was performed.

75 (c) The word "material" as used in sections [49-41] 49-33, as amended  
76 by public act 99-153, to 49-43, inclusive, [includes the rental of equipment  
77 used] shall include construction equipment and machinery that is rented  
78 or leased for use (1) in the prosecution of work provided for in the  
79 contract within the meaning of sections 49-33 to 49-43, inclusive, as

80 amended, or (2) in the construction, raising, removal of any building or  
81 improvement of any lot or in the site development or subdivision of any  
82 plot of land within the meaning of sections 49-33, as amended by public  
83 act 99-153, to 49-39, inclusive.

**JUD Committee Vote:** Yea 39 Nay 0 JF

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:***           None

***Affected Agencies:***   Judicial Department

***Municipal Impact:***   None

**OLR Bill Analysis**

SB 550

***AN ACT CONCERNING PROTECTION FOR EQUIPMENT RENTAL.*****SUMMARY:**

This bill gives people who lease construction equipment and machinery the same right to a mechanics' lien as those who presently furnish material or provide services. This applies to equipment used to construct, raise, or remove buildings; improve any lot; or develop sites or subdivide any plot.

It limits the bond protection afforded to those who lease equipment used in connection with public works contracts exceeding \$50,000 to construction equipment and machinery.

EFFECTIVE DATE: October 1, 2000

**BACKGROUND*****Mechanics Liens***

A mechanic's lien is a claim, created by statute, to secure payment for work performed or material furnished to erect or repair a building or improve land. The underlying purpose is to encourage construction and building repairs and to protect contractors, subcontractors, and suppliers by trying to ensure that they will be paid for services rendered and material provided.

The lien takes effect when the contractor begins to furnish material or perform services. To be valid, it must be filed on the land records of the town where the land is located within 90 days after the contractor or subcontractor has ceased performing services or supplying material. A mechanic's lien takes precedence over other liens filed after it takes effect. The lien can be enforced by foreclosure like a mortgage. If the landowner does not pay the amount secured by the lien, the contractor

or subcontractor can force a sale of the property and get paid from the proceeds.

A mechanic's lien for a subcontractor cannot exceed the amount that the owner agreed to pay the contractor who hired the subcontractor. Also, the owner must be credited with all payments he made to the contractor before he had notice of the subcontractor's lien.

### ***Bond Protection for Public Works Projects***

By law, each contract exceeding \$25,000 for the construction, alteration, or repair of any public building or public work of this state or any of its subdivisions, must include the requirement that the person performing the contract secure a performance bond to protect those who supply labor or material. The bill imposes deadlines for paying subcontractors and material suppliers and establishes a procedure for them to assert their claims against the bond for noncompliance with these deadlines (CGS § 49-41 to 49-43).

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Report

Yea 39      Nay 0