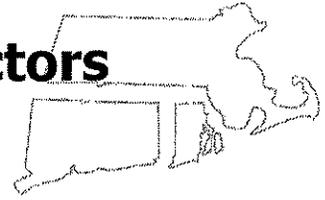




Independent Electrical Contractors of New England, Inc.



TO: The Honorable Tom Colapietro and Jim Shapiro
Members of the General Law Committee

From: Lisa Hutner, Executive Director

Date: February 16, 2010

Re: **H. B. No. 5137 AN ACT CONCERNING HOME IMPROVEMENT
SUBCONTRACTOR LIENS**

The Independent Electrical Contractors of New England (IEC-NE) would like to submit the following comments regarding **HB-5137, An Act Concerning Home Improvement Subcontractor Liens**, which prohibits mechanic's liens on homes where the owner has paid the home improvement contractor or where the owner is disputing the home improvement contractor's compliance with the terms of such contract.

The bill, as drafted, appears to shield homeowners from subcontractor mechanic's liens when there is a "dispute" regarding the home improvement contractor's compliance with the terms of the contract. However, it is unclear what constitutes a "dispute" under the bill. Is "dispute" intended to refer to a legal complaint filed in court or simply a disagreement among the parties? The term "dispute" should be narrowly defined in order not to unfairly jeopardize a subcontractor's rights under the law.

The bill also prohibits a subcontractor's lien if the owner has paid the home improvement contractor. It is our understanding that if a homeowner has paid the general contractor what is owed, any lien filed is invalid and must be discharged. The provision in the bill is therefore unnecessary.

In addition, under current law, if a property owner believes the mechanic's lien should be discharged or reduced, the property owner can apply to Superior Court for a hearing on the matter. The burden is then on the contractor, subcontractor or supplier to show that there is probable cause to uphold the validity of the lien. Therefore, it appears that the current law already provides opportunity for homeowners to discharge a lien that is unreasonable.

Mechanic's liens are an important mechanism to subcontractors in the timely resolution and balancing of claims between all parties involved. We therefore urge lawmakers to be careful about amending the mechanic's liens laws in ways that may have unintended consequences for small contractors.

We therefore urge lawmakers to oppose HB-5137.

The Independent Electrical Contractors of New England is the premier trade association representing Connecticut, Massachusetts and Rhode Island independent electrical contractors aggressively working with the industry to establish a free environment for merit shop -- a philosophy that promotes the concept of free enterprise, open competition and economic opportunity for all.

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