



MONEY AND JUSTICE

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Whether you are an electrical contractor, electrical distributor, manufacturer's representative, utility executive or a design professional, one pervasive thing that we all have in common is our need to get paid for the goods and services that we provide. In the construction industry, it became much harder this past year to secure the payment rights of electrical contractors, their suppliers and ultimately the workers on construction projects. On February 25, 2011 the Illinois Supreme Court issued a decision that diminished the rights of contractors under the Illinois Mechanics Lien Act. This decision, known as the "Cypress Creek Decision" brought bad news for many of the businesses that make up the construction industry.

The stakeholders in our industry are all familiar with the provisions of the Illinois Mechanics Lien Act. The Act, which was established in the 1840's, and later amended, has become a widely accepted method for ensuring that an electrical contractor whose material and labor improves a property can obtain fair compensation for the work in the event that he or she is not paid in a timely fashion. Section 16 of the Act describes how to equitably share the limited monetary assets among lenders and lien claimants such as contractors, subcontractors, laborers and material suppliers when the proceeds of the sale of a project are less than what all of them are owed.

So what has changed? When the Illinois Supreme Court issued the Cypress Creek Decision, they basically disregarded and dismissed over 170 years of precedent under the Mechanics Lien Act and held that lenders now have priority in a property foreclosure both on the value of the land and on the value of the improvements erected on the property. Lenders now have two opportunities to siphon off money from the proceeds of a foreclosure sale at the expense of the contractors and suppliers who improved the property.

Obviously, the Decision has created unwelcome turmoil within an already depressed industry. Let's take action to correct the problem. NECA is working in concert with other specialty contractors associations through a combined legislative group, IMSCA, in order to advance legislation to remedy the harmful effects the ruling. A Bill in the Illinois House (HB 3636) is being amended in a manner that will legislatively reverse this unfair development and restore the legislative intent of the 1903 Mechanics Lien Act as amended. Your support is needed. Become familiar with the "Cypress Creek" decision and offer your voice and support to legislation to correct the problem. If you need additional information, or want to help, please contact the NECA Chapter office at (630) 876-5360.