

The Construction Lien Act – Contractor Rights and Owner Obligations



The Construction Lien Act (the “Act”) is a powerful remedy that protects contractors in the event of non-payment.

CONTRACTOR RIGHTS

Anyone who supplies services or materials to an owner, contractor or subcontractor, is entitled to a lien on the premises for the price of those services or materials. This includes any alteration, addition, or repair to land and buildings, including the demolition or removal of a structure or part of a structure.

An unpaid contractor must register a Claim for Lien within 45 days from the earliest of the date the work was completed or a certificate of substantial performance is published. In order to register a lien, a lawyer must know the legal description of the property, the amount owed under the contract, the date the work commenced, and the date of completion or substantial performance of the contract.

For purposes of claiming a lien, the contract is complete when the price of completion, correction of a known defect, or last supply is not more than the lesser of 1% of the contract price or \$1,000.00.

The lien is perfected by registering a Certificate of Action against the property upon which the improvement was made. One perfects a lien by commencing an action to enforce the lien. The action must be commenced in the County where the premises/lands are situated.

It is imperative that the 45 day timeline be judiciously guarded. If you miss the deadline, your lien rights are lost; but you would still have the ability to sue the defaulting party in order to collect the balance owed.

OWNER OBLIGATIONS

If you are renovating your home or business premises, it is suggested that you contact the Better Business Bureau to ensure that the contractor you are engaging is reputable. Be sure your contract is put in writing and that it specifies the work to be done, the time frame for completion, and the agreed upon price and payment terms.

As owner, you are obligated to holdback 10% of the contract price until lien rights have expired. Failure to adhere to

this statutory holdback requirement may render an owner liable to the lien claimant.

CONCLUSION

The construction lien process requires adherence to strict deadlines. Owners and contractors alike are urged to seek the advice of a lawyer familiar with construction liens. Prompt action and adherence to the Act’s requirements protects contractors and owners alike.

Litigation/Trial Practice
Christa Rea 519.561.7423

