



Hi everyone! I'm **Jim**.

Jim Gibbons Levelset Education Expert jim.gibbons@levelset.com 504-380-9918 I help folks just like you never lose a night's sleep over getting paid.



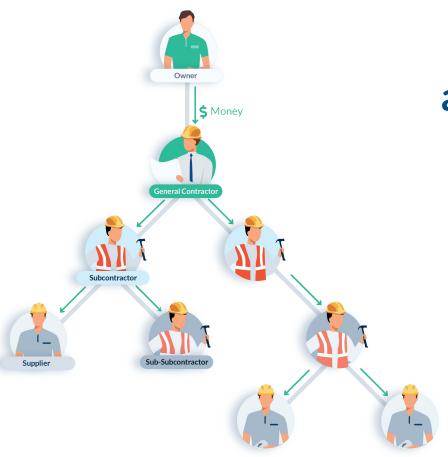


Today's Agenda

Why construction payment issues arise

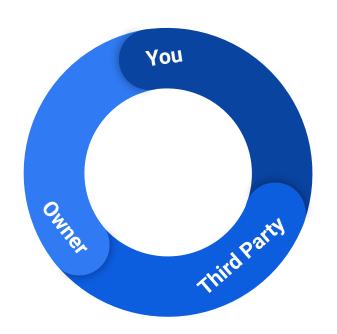
The basics of Texas lien law

Use Levelset to order the right documents and get paid



Construction projects are full of financial risk.

- Unlike most other industries, you supply labor or materials up front, then get paid afterwards
- More parties involved = more risk
- Payment or communication issues can pop up anywhere along the payment chain



Even on simple construction projects...

- Payment can be held up by slow-moving third parties (i.e. an insurance co.)
- You face risk when working with new property owners (even if you're working for a trusted GC)
- Other parties may not pay close attention to getting you paid quickly



It can be hard to get paid in construction.

Companies in construction wait an average of 83 days for payment.

In 2018, 46% of companies said they had used a credit line to cover slow payments.

Payment can be held up for many reasons

Processing your pay app or waiting on additional documentation

Lost invoice

Billing surprise or dispute

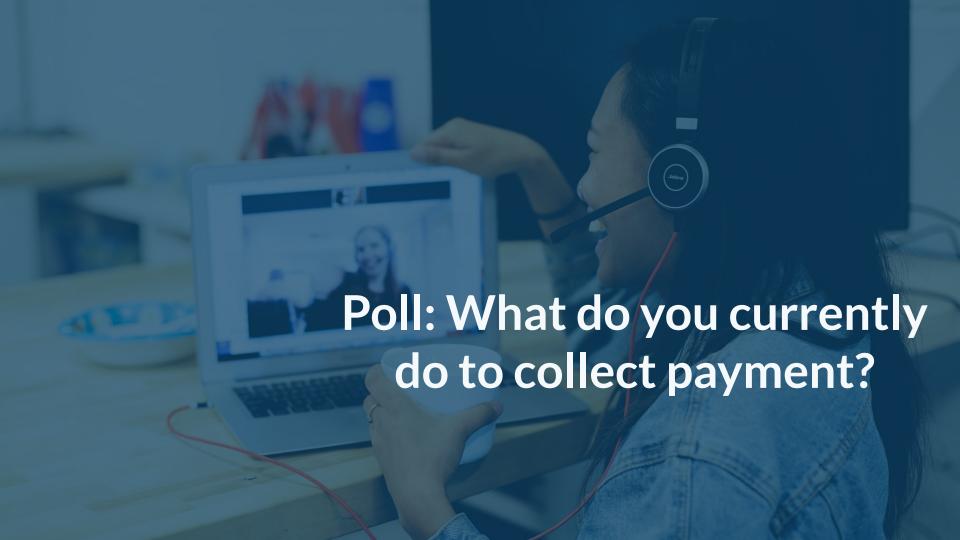
Can't pay right now, waiting on cash flow

Completion or Change Order Dispute

Conflicting Payment Terms

Poor Workmanship from Someone Else

The list goes on...



According to CFMA data, the average profit margin in construction is 6.2%.

If you have a 6% profit margin, you'll need \$417,000 of new revenue to make up \$25,000 in bad debt.

The true loss of bad debt to a company is more than just the amount of the debt itself.

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Maintaining lien rights in Texas can be complicated

Make Complex Things Simple

Complicated deadlines

Monthly mailings required

Step 1: Send Texas "Preliminary Notice"

At the start of the job

Texas requires and allows certain visibility notices to be sent at the beginning of a construction project, which act to protect certain rights and make sure everyone knows who else is working on site.

- The primary notice required is the Notice of Contractual Retainage, which preserves your right to file a lien or bond claim against contractual retainage.
- Other notices required during this period include:
 - i. Notice of Specially Fabricated Materials
 - ii. Request for Notice of Termination
 - iii. Request for Surety and Bonding information.

Do you encounter jobs where the property owner holds retainage?

Do you supply specially fabricated materials?

^{**} Different rules apply if you're working on a homestead.

Simplifying Texas Preliminary Notices

Additional Info About the Job

Property Description

Entire Contract Price

Retainage Provided For in Contract (Retainage)

NOTICE IS HEREBY PROVIDED to you that the above-identified Party Sending Notice has a contract with the Hiring Contractor to provide the above-identified Services on the above-described Project. The Party Sending Notice's contract may provide for retainage of ten percent of the contract amount, or, if available an estimated total retainage above-identified as Retainage. Regardless of the identification or non-identification of Retainage herein, this is notice that the contract may have a requirement for retainage, the nature of which requires withholding from the Party Sending Notice of a certain percentage of payments duelt. The percentage may be as much as 10%. The retainage will be withheld from each monthly any application and guide to the Party Sending Notice of a certain percentage of payments duelt. The percentage may be as much as 10%. The retainage will be withheld from each monthly any application and guide to the Party Sending Notice of the Party Sending Notice of the Party Sending Notice was the Party Sending Notice was the Party Sending Notice was its self of all right to pursuant thereto.

Additionally Sarah Test Account avails itself of Texas Property Code § 53.02318], or Texas Government Code Title 10 92 252.0474, as the a case maybe, which provides that prices of the optional property and the provides that provides the provides that the provides that provides the provides the provides that provides the provides the provides that provides the provides the provides the provides the provides that provides the provides that provides the provides the provides the provides the provides the p

Further, Sarah Test Account avails itself of Texas Property Code § 53.107, or any applicable provision within the Texas Government Code, as the case maybe, which provides that in the event the general contractor is terminated or if the contract for construction is abandoned, you will growlob Sarah Test Account with applicable notification of the same.

Finally, if there is a surety or lender on the project, and/or if any of the above identifing information about the project or the parties is inaccurate or incomplete, request is hereby made pursuant to Texas Property Code § 53.159 and Texas Government Code § 2253024, that you furnish to Sarah Text Account correct or complete information, including the following information, in applicable:

- (1) The name and last known address of the property owner or governmental entity with whom the prime contractor contracted for the work;
- (2) A copy of the payment and performance bonds for the work, including bonds furnished by or to the prime contractor, and (3) The name of the survely issuing the payment bond and the performance bond and the tol-livere telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, for obtaining information concerning licensed insurance commanies.

Such information may be provided to Sarah Test Account, at the following address:

Sarah Test Account 13 Vine Street Sugar Land, Texas 77498

Thank you.

Sords Tallmin

Sarah Test Account Signed by Sarah Toulmin, Authorized and Disclosed Agent Signed on August 12, 2019 At Levelset, because of the complexity of preliminary notices in Texas, we combine them all into one deadline and one mailed notice. The most critical of these notices are due on the 15th day of the 2nd month after labor and/or materials are first delivered, but it is a best practice to send these notices immediately after the start of construction as some rights may be better protected with an earlier notice.

Sending a preliminary notice at the start of every job is a great way to insure your payment and open up a friendly line of communication to other parties.



How to Explain to Customers

"I'd like to give you a heads up that you will receive a preliminary notice in the mail from our company. There's nothing you need to do with it! It's just a friendly visibility document required by Texas law to be sent by contractors/suppliers like us.

The purpose of this notice is to help you track who is working on site. It's not an indication of payment issues or any other issues on the job.

It's our standard policy to send these at the start of every job to maintain transparency on our projects."

Step 2: Texas "Monthly Notices"

After invoicing

In order to maintain the right to file a valid mechanics lien if you're not paid, the State of Texas (Chapter 53 of the Texas Property Code) requires contractors to send regular notices after each and every month in which you work on a project and are waiting to get paid.

- Notices go by many names -- also called "Fund trapping notices", "1st and 2nd Notices" or "Notices of Intent".
- Sent 2-3 months after you furnished labor/materials and were unpaid.
- The deadline to send is always the 15th of the month.
- If you don't send these documents, you lose lien rights.

Send Texas Monthly Notices If You're Waiting on Payment



2nd Month Notices

should be sent by the 15th of the month 2 months after the month work was done if you still have not received payment.

3rd Month Notices

should be sent by the 15th of the month 3 months after the month work was done if you still have not received payment.

Monthly Notice Requirements

Based on your project tier and the type of project

Always due on the 15th

Secure lien rights



Residential Jobs



Commercial Jobs



Public Jobs



Your Role

Requirements

Notice

Requirements

Notice

Notice Requirements

GC/Prime (Contracted directly with owner)

No Notice Required

2 Month Notice

to Owner & GC)

(Send Certified Mail

No Notice Required

No Notice Required

First Tier Sub (Contracted with GC)

> 2 Month Notice (Send Certified Mail to Owner & GC)

3 Month Notice (Send Certified Mail to Owner & GC) 3 Month Notice (Send Certified Mail to GC & Surety)

Second Tier
Sub (Did not
contract with
GC or Owner)

2 Month Notice (Send Certified Mail to GC)

3 Month Notice (Send Certified Mail to Owner & GC) 2 Month Notice (Send Certified Mail to GC)

3 Month Notice (Send Certified Mail to GC & Surety)

2019 Texas Monthly Notice Calendar

Are you still unpaid for September or August 2019?

| Month Work Performed | 2nd Month Notice Due | 3rd Month Notice Due | |
|----------------------|----------------------|----------------------|--|
| January 2019 | Friday 3/15 | Monday 4/15 | |
| February 2019 | Monday 4/15 | Wednesday 5/15 | |
| March 2019 | Wednesday 5/15 | Friday 6/14 | |
| April 2019 | Friday 6/14 | Monday 7/15 | |
| May 2019 | Monday 7/15 | Thursday 8/15 | |
| June 2019 | Thursday 8/15 | Friday 9/13 | |
| July 2019 | Friday 9/13 | Tuesday 10/15 | |
| August 2019 | Tuesday 10/15 | Friday 11/15 | |
| September 2019 | | Friday 12/13 | |
| October 2019 | Friday 12/13 | Wednesday 1/15/2020 | |
| November 2019 | Wednesday 1/15/2020 | Friday 2/14/2020 | |
| December 2019 | Friday 2/14/2020 | Friday 3/13/2020 | |



Example of Texas Monthly Notice

Missing or Incorrect Data? Visit zlien.com/fix/ - Reference Number: 828316

TEXAS NON-RESIDENTIAL MONTHLY NOTICE

Prime Contractor:

Michael Kungl 4819 Prytania Street New Orleans, Louisiana 70130

Property Owner:

Sarah Toulmin 43 Fort Pond Road Acton, Massachusetts 01720

Notifying Party:

Lien Lab 3011 North PanAm Expressway San Antonio, Texas 78219

Hiring Party:

Month for which you are receiving this Notice: August

Amount unpaid for work performed, or materials delivered, in the above month: 2.500.00

Total Amount Due to Claimant to date: 5,000,00

Property where improvements and/or construction is being performed by the Party Sending Notice is described as follows (the "**Property**"): 1 Not Real Lane, Southlake, Texas 76092; County of: Tarrant County

Description of work performed by the party sending notice (the "Services"): Drywall materials THIS IS NOT A LIEN. This notice is provided to inform you that the herein-identified Notifying Party has periormed the nerein-identified Services on the herein-identified Project, and specifically, that in regards to the same, the Notifying Party is owed money on the account for said Services. As of the date of this notice, the amount currently due to the Notifying Party is herein-identified as the "Total Amount Due to Claimant to Date". The total due for the specific month for which this Notice has been sent, is identified as "Amount unpaid for work performed, or materials delivered, in the above month".

To preserve our rights under Texas law, we are required to inform you that if the claim remains unpaid, the owner may be personally liable and the owner's property may be subjected to a lien unless:

- (1) the owner withholds payments from the contractor for payment of the claim; or
- (2) the claim is otherwise paid or settled.

Further, **PLEASE TAKE NOTICE** that the Notifying Party makes demand upon you for payment of the Amount Currently Owed under § 53.083, and request that you forward to us any funds held for the original contractor to pay this claim, unless the original contractor disputes this claim, as per law. All or part of the claim has accrued under Section 53.053 or is past due according to the agreement between the parties.

Signature:

Johny Doe

Signed by: Johny Doe Authorized Representative of Lien Lab Dated: October 04, 2017

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How to Explain Monthly Notices to Customers

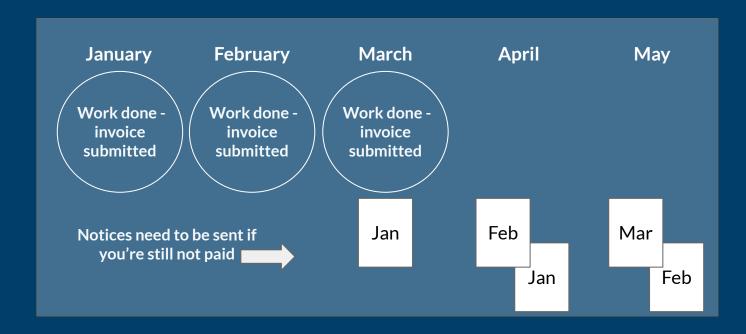
"I'd like to give you a heads up that you will receive a notice in the mail from our company. This notice is required by Texas property code to be sent by contractors like us for your benefit to help you track everyone working on site and make sure we get paid.

The purpose of the document is to let you know when we're waiting on payment for a certain month.

It's nothing personal - it's our standard policy to comply with Texas law and always send these required notices to help you manage payment to us and our suppliers."

Get in the Habit of Sending Every Month

This is not a case where one notice can be sent and then you're fully protected. <u>Texas requires routine and systematic noticing.</u>



Step 3: Last Resort Documents

File a lien or bond claim

Liens are due by the 15th day of the 4th calendar month after the last day of the last month in which the labor was performed or the material furnished (3rd month if the project is residential).

Bond claims are due 90 days (3 months) from final completion of a job.

| Work Last Performed In | Residential Liens Due | Non-Residential Liens Due | State Liens Due |
|---------------------------|--------------------------|------------------------------|---------------------|
| July 2019 | Tuesday 10/15 | Friday 11/15 | Tuesday 10/15 |
| August 2019 | Friday 11/15 | Friday 12/13 | Friday 11/15 |
| September 2019 | Friday 12/13 | Wednesday 1/15/2020 | Friday 12/13 |
| October 2019 | Wednesday 1/15/2020 | Thursday 2/14/2020 | Wednesday 1/15/2020 |
| November 2019 | Thursday 2/14/2020 | Friday 3/13/2020 | Thursday 2/14/2020 |
| December 2019 | Friday 3/13/2020 | Wednesday 4/15/2020 | Friday 3/13/2020 |

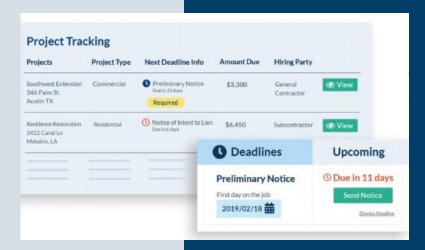
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Let Levelset Take It All Off Your Plate



- Simple deadline tracking
- Simple mailing
- Simple report downloads
- And if you really want to take it all off your plate:
 - a. Texas Monthly Notice Control feature
 - b. **Import projects and invoices** into Levelset so you don't have to manually enter data

Platform Walk-Through: How to set up a Texas job in Levelset

(Average time: 2-3 minutes)



Tripling growth led to spreadsheet nightmares

With business tripling and expanding across state borders, Katy, the accounting manager at Central Texas Lath & Plaster, knew that tracking notice deadlines in spreadsheets was going to be a major risk to bringing in revenue and securing their lien rights.



Never missing deadlines to secure lien rights

Worried about aging receivables and overwhelmed with a broken process, Katy knew they needed help. Levelset automatically tracks deadlines and requirements for every state, empowering Katy to file the right documents. What used to take her an entire day now only takes 15 minutes.



Peace of mind knowing payment is protected

Katy's stress has lifted knowing that sending the right notices at the right time is now just a matter of a few clicks. Katy ensures that Central Texas Lath & Plaster will avoid trouble collecting receivables in the future, and she also gets them paid quicker.

Take a **proactive** approach

No more scrambling the week of the 15th to figure out requirements and send docs.



"The beautiful thing is that with the Levelset platform I'm able to see the required documents, and the dashboard shows upcoming deadlines, which is extremely helpful."

Katy McGee, Accounting Manager, Central Texas Lath & Plaster Masonry Subcontractor Based in Texas, Operating in Over 5 States

Monthly Notice Control Add-On



Generate an easy list and automate the sending of docs

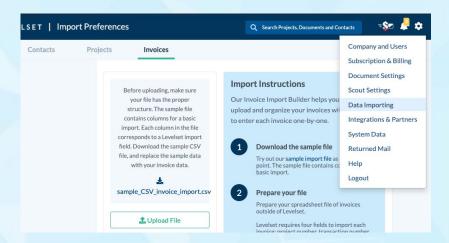
| Core Project Info | Customer Info | Outstanding Amount | Next Deadline Information | |
|---|---|--------------------|---------------------------|---|
| Texas Test Job 1 Test Avenue Addison, TX 75001 | TX SubContractor Job [QuickBooks- 11] 1526 West Cris Place Anaheim, California 92802 | \$800.00 | 0 | Deliver Your Monti Notice Due in 2 days |
| Texas Supplier Test [1010] 1 Big Bend Street Port Arthur, TX 77642 + • | zlien General Contractor 1 GC Road New Orleans, Louisiana 70130 | \$200.00 | 0 | Deliver Your Mont Notice Due in 2 days |
| Texas Example [ABC123] 1 Fake School Street Houston, TX 77017 | Test Sub 1 Test Sub Street High Point, North Carolina 27263 | \$7,800.00 | 0 | Deliver Your Mont Notice Due in 2 days |

Easier ways to get invoices into Levelset

Integrate with QuickBooks



Upload A/R Aging Files (.xls or .csv)



Due Next week!

→ 2nd month notices for unp

Notice Type & Invoice Month

Approval Day (approve by 3pm CT) Notice Day (cancel until 10am CT)

2nd Month Notice: **Nov 2018** 3rd Month Notice: **Oct 2018**

Thursday 1/10

Tuesday 1/15

2nd Month Notice: Dec 2018

Friday 2/15

→ 3r ur in

Order documents ASAP- don't wait until the 15th (or the day before) to order!

→

invoices

Note: This calendar takes into account when the 15th falls on a weekend or holiday, shifting the deadline to the prior business day.

3rd Month Notice: Jul 2019

2nd Month Notice: Aug 2019

2nd Month Notice: **Sep 2019** 3rd Month Notice: **Aug 2019**

2nd Month Notice: Oct 2019 3rd Month Notice: Sep 2019 Thursday 10/10

Tuesday 11/12 Friday 1

Friday 11/15

Tuesday 10/15

Tuesday 12/10 Friday 12/13

Recommended Tools to Empower You:

Texas E-Book - Texas Notices Overview & Best Practices

Texas Lien Law FAQs

Texas-Centric Platform Tutorials

2019 Texas Monthly Notice Calendar

2019 Texas Lien Deadline Calendar

lienzero - We wrote a book on getting paid. Download your free copy!

We're Here to Empower You to Get What You've Earned.



Legal Info

Levelset's Free
Construction Legal
Center

Fast Expert Support

In-app chat 855-927-2737 mail@levelset.com