

There are **many different ways mechanics liens can work to get you paid**, but the most important thing to remember is that they **work**. By giving the claimant an interest in the improved property itself, the mechanics lien empowers construction participants to get what they've earned and deserve.

If you have decided to file a Texas mechanics lien because you are owed money for work performed on a construction project, this step-by-step guide will tell you how. Keep in mind there may preliminary notice and timing requirements that must be met prior to filing a valid Texas mechanics lien, and that it can be complicated and time consuming to file a mechanics lien by yourself. Further, Texas mechanics liens are an available remedy only for certain parties. But, once you're ready to file, just follow the steps below to start the lien process.



Mechanics liens are powerful tools to prompt payment for companies that have not been paid on time – or at all – on a construction project.

Prepare Your Texas Mechanics Lien & Make Sure It Has the Required Information

Texas has very **specific and numerous requirements** that govern the information and text that must be included on the lien form itself. The failure to include the required information (including in some instances a very specific and seemingly counter-intuitive warning), can result in an **invalid lien**. Additionally, **Texas mechanics liens are required to be notarized**, so if you are preparing your lien document yourself remember that once it is complete, you must wait to sign until your signature on the document can be notarized.:

1. a sworn statement of the amount of the claim;
2. the name and last known address of the owner or reputed owner;
3. a general statement of the kind of work done and materials furnished by the claimant and, for a claimant other than an original contractor, a statement of each month in which the work was done and materials furnished for which payment is requested;

4. the name and last known address of the person by whom the claimant was employed or to whom the claimant furnished the materials or labor;
5. the name and last known address of the original contractor;
6. a description, legally sufficient for identification, of the property sought to be charged with the lien;
7. the claimant's name, mailing address, and, if different, physical address; and
3. for a claimant other than an original contractor, a statement identifying the date each notice of the claim was sent to the owner and the method by which the notice was sent.

Further, if the lien is being claimed against a homestead property, the lien must contain the following notice conspicuously printed, stamped, or typed in a size equal to at least **10-point boldface** or the computer equivalent, at the top of the page:

“NOTICE: THIS IS NOT A LIEN. THIS IS ONLY AN AFFIDAVIT CLAIMING A LIEN.”

How to File a Texas Mechanics Lien

Now it's time to get the lien filed - which, in Texas, means submitting the lien affidavit to the county clerk for the county in which the property is located.

1. Prepare lien form with the above information, sign it, and have a notary acknowledge the signature of a party. This **MUST** be notarized in order to be filed.
2. Provide the original notarized copy to the clerk's office in the county in which the project occurred.
 - The original copy delivered to the county clerk's office for recordation may be delivered via mail or FedEx, personally "walked in" to be recorded, or in some Texas counties it may be E-recorded.
 - If you have chosen to e-record, the filing and processing fees will be assessed prior through the e-recording portal you have chosen prior to recordation. Select "Lien" from the e-recording service you have decided to use, upload your lien and any attachments/exhibits, and follow the prompts.
 - If you have decided to personally deliver the lien for recording, or if you mail/FedEx the lien to the appropriate county, the recording fees must be included with the lien - or it may be rejected. Counties often reject liens for improper fees, which can result in more time passing and, potentially, a missed deadline. Recording fees can be determined by calling the county recorder, checking on the clerks office's website, or asking in person if you physically bring the lien for filing. Usually, the fees are set at one amount for the first page with an additional, smaller, amount for each additional page. **IMPORTANT** - since recording fees are generally by page, you may incur steep charges if you attach your entire contract or all of your invoices. Some counties allow you to minimize documents in attachments such that 4 original pages can be put on each page to reduce the filing fee. If you have a lengthy exhibit or attachment it can pay off to check.
3. Once the document is recorded, a stamped copy of the recorded lien can be obtained for your records.
 - Note that if you mailed your lien to the county for recording, or sent it via a courier, along with including a) the proper fees for recording with the document; you will need to include b) a self-addressed stamped envelope with return instructions if you wish to receive a copy of the recorded lien for your records.
4. Texas law requires that the Claim of Lien be served on the owner of the lien property either prior to the recording of the lien not later than the 5th business day after the recording of the lien. Failure to do so may result in the lien's invalidity. For more information regarding serving the lien see below.

How to Serve a Texas Mechanics Lien

As noted above, **a copy of the lien affidavit must be sent to the property owner and the prime contractor not later than the 5th business day** after the lien has been filed with the clerk. Note, however, that it is acceptable to send the notice to owner and prime contractor at the same time - or even before - the filing of the notice. That means once you have completed the lien affidavit and prepared it for filing, a copy can be sent to the property owner (and prime contractor, if applicable) at the same time so you don't need to worry about getting it served in time after receiving the recorded copy.

Special Note for Direct Contractors - Constitutional Lien

Direct contractors in Texas (those that contract directly with the property owner) are granted additional lien benefits. In addition to the mechanics lien created by state statute (in other words, by "state law") discussed above, **direct contractors are granted a mechanics lien through the Texas Constitution**. This is a self-executing lien, such that there is no formal notice or filing required. It arises automatically upon the furnishing of labor or materials to the project at the behest of the owner. However, it is a good idea to file and serve a lien in the manner of the statutory mechanics lien, to provide notice and encourage payment prior to initiating a lawsuit.

Special Note - Liens on Homesteads

There are special requirements in order to be able to **claim a lien on a Texas homestead**. Before following the steps above to file a lien on an owner-occupied residential property, check to see if there are hurdles to its validity based on the following requirements.

- *There must be a written contract with the owner*
- *The written contract must be executed before work commences*
- *If the owner is married the contract must be signed by both spouses*
- *The contract must be filed with the county clerk*

Congratulations! Once the above steps have been taken and your mechanics lien is filed and served, you have a mechanics lien that can work to get you paid what you deserve. This is a *powerful* tool to get paid - but remember that just because a lien is recorded it doesn't mean that it is necessarily valid, and or that it cannot be challenged. Sometimes a lien can be recorded even if it is not valid for some reason, and, whether or not it is valid, a property owner (or their attorney) may make a claim that it is improper and needs to be removed. FURTHER, there can be penalties for filing a frivolous lien or a lien known to be invalid for some other reason. This is not only unfair and improper, it can result in penalties and liability - a lien claimant should take great care in only filing liens when it is necessary and proper to do so.

Finally, a **Texas mechanics lien stays effective for 2 years from the last date on which it could have been recorded or 1 year from the final completion of the work, whichever is later** - after that date the lien expires, and it cannot be extended.

Recording a mechanics lien can be a powerful tool in making sure you are paid what you earned. But construction companies in Texas need to take special care when managing their lien rights, because **Texas has the most confusing and complicated lien requirements in the United States, period.**

And so, while the How-To guide above can empower you to take that step when and if it becomes necessary, in order to take advantage of your lien rights and make sure you're treated fairly in the state of Texas, you're going to have extra careful to manage all of the requirements accurately. Or, you might want to consider **talking to us** to see if *zlien* can help.

Want to take a shortcut?

Now you have everything you need file a mechanics lien. But there's a better way. Click the green button to have *zlien* to file your mechanics lien for you. We're experts.



We secure \$1.78 B every month



We've protected over 1.5 M construction projects



We've handled over 680 K documents



Ready to Get Started?

Click the green button or visit app.zlien.com to file a lien through *zlien*.
Questions?

Call 866-720-5436

[FILE A LIEN](#)

Prepared by, recording requested by and return to:

Name: _____
Company: _____
Address: _____

Phone: _____
Fax: _____

Above this Line for Official Use Only

AFFIDAVIT OF LIEN BY TIERED CONTRACTOR OR SUPPLIER

State of Texas || County of _____

NOTICE: THIS IS NOT A LIEN
THIS IS ONLY AN AFFIDAVIT CLAIMING A LIEN

The Claimant (Name)

Amount of Claim

\$ _____

(Mailing Address)

General statement of kind of work done and/or materials furnished (**Services**):

(Physical Address)

The Property Owner

(Name & Address of Owner or Reputed Owner)

The Services were performed in construction of improvements at the following described property (**Property**):

The Original Contractor

(Name & Address of Party who Contracted With the Property Owner)

The Hiring Party

(Name & Address of Party who hired Claimant)

Months Services Furnished

The Claimant provided Services for which payment is requested in the following month(s):

Dates Notices Sent:

The Claimant delivered Notice of the Claim to the Property Owner on the following dates, and through the following method:

Date:	Delivered via:
____ / ____ /20 ____	_____
____ / ____ /20 ____	_____
____ / ____ /20 ____	_____
____ / ____ /20 ____	_____

Attachments to this Affidavit of Lien Include:

Exhibit A: Affidavit of Delivery of this Affidavit of Claim to the Owner

Exhibit B: _____

Exhibit C: _____

BEFORE ME, the undersigned authority, personally came and appeared _____, a person of the full age of majority, who upon his/her oath did depose and state the following:

- A. That he/she is an authorized and disclosed agent of the above-identified Claimant. As the authorized and disclosed agent of the Claimant, he/she has been provided with the facts related to the claim asserted herein, and to the best of his/her knowledge, information and belief, the facts set forth herein are true and correct. He/she is competent and authorized to make this affidavit.
- B. The Claimant is above-identified, as is its mailing address and physical address. The Claimant was a contractor and/or supplier on the project in question;
- C. Under its contract with the above-identified Hiring Party, the Claimant agreed to provide the above-described Services for the installation of improvements to the above-described Property.
- D. The owner or reputed owner of the real property above-described and made subject to this Affidavit of Lien is above-identified as the Property Owner, as the owner's mailing address.
- E. The real property sought to be charged with a lien is the property above-described as the Property.
- F. The total amount due to the Claimant is above-identified as the Amount of Claim. This amount is just, due and correct, after allowing all credits, offsets and payments. The Claimant claims a lien on the Property and its improvements to secure payment of its Amount of Claim.
- G. A copy of this Affidavit of Lien was mailed to the Property Owner and the Original Contractor as per the Affidavit of Delivery attached to this Affidavit of Lien as Exhibit A.
- H. The additional exhibits attached to this Affidavit of Lien (if any) are true and correct copies of the documents, the documents themselves offering the best evidence of its contents.

- I. Each month in which Services were provided to the Property for which payment is requested is identified above as Months Services Furnished;
- J. The date each Notice of Claim was sent to the Owner, and the method of its delivery, is identified above as Dates Notices Sent.

STATE OF _____
 COUNTY OF _____

BEFORE ME, undersigned Notary Public, personally came and appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the facts asserted therein were true, correct and accurate to the best of his/her information and belief, and that he/she executed the document for the purposes stated therein, and in the capacity stated therein, and as the act and deed of said Claimant.

Subscribed and sworn to before me, on the ____ day of _____, 20____.

 Notary Public

Signed this ____ day
 of _____, 20____.

 Agent for the Claimant

Signed by: _____
 Title: _____

EXHIBIT A

PROOF OF SERVICE AFFIDAVIT

I, _____, being duly sworn, deposes and says that I am over the age of 18 years old, that this affidavit is made upon my own personal knowledge, and that on the ____ day of _____, 20 ____, I served the attached Affidavit of Lien to the following party at these stated addresses:

Property Owner

Original Contractor

Hiring Party

I served the attached document:

By personally delivering the notice to the identified parties;

By First Class Certified or Registered Mail service, return receipt requested, postage prepaid.

State of _____
County of _____

Signed this ____ day
of _____, 20 ____.

Sworn to and subscribed, after being placed under oath, before me, undersigned Notary Public, on the date inscribed to the right of this verification, acknowledgement and declaration.

Notary Public

Agent for the Claimant
Signed by: _____
Title: _____

Prepared by, recording requested by and return to:

Name: _____
Company: _____
Address: _____

Phone: _____
Fax: _____

Above this Line for Official Use Only

AFFIDAVIT OF LIEN BY ORIGINAL CONTRACTOR

State of Texas || County of _____

NOTICE: THIS IS NOT A LIEN
THIS IS ONLY AN AFFIDAVIT CLAIMING A LIEN

The Claimant (Name)

Amount of Claim

\$ _____

(Mailing Address)

General statement of kind of work done and/or materials furnished (**Services**):

(Physical Address)

The Property Owner

(Name & Address of Owner or Reputed Owner)

The Services were performed in construction of improvements at the following described property (**Property**):

Attachments to this Affidavit of Lien Include:

Exhibit A: Affidavit of Delivery of this Affidavit of Claim to the Owner

Exhibit B: _____

Exhibit C: _____

BEFORE ME, the undersigned authority, personally came and appeared _____, a person of the full age of majority, who upon his/her oath did depose and state the following:

- A. That he/she is an authorized and disclosed agent of the above-identified Claimant. As the authorized and disclosed agent of the Claimant, he/she has been provided with the facts related to the claim asserted herein, and to the best of his/her knowledge, information and belief, the facts set forth herein are true and correct. He/she is competent and authorized to make this affidavit.
- B. The Claimant is above-identified, as is its mailing address and physical address. The Claimant was the Original Contractor on the project in question;
- C. Under its contract with the above-identified Property Owner, the Claimant agreed to provide the above-described Services for the installation of improvements to the above-described Property.
- D. The owner or reputed owner of the real property above-described and made subject to this Affidavit of Lien is above-identified as the Property Owner, as the owner's mailing address.
- E. The real property sought to be charged with a lien is the property above-described as the Property.
- F. The total amount due to the Claimant is above-identified as the Amount of Claim. This amount is just, due and correct, after allowing all credits, offsets and payments. The Claimant claims a lien on the Property and its improvements to secure payment of its Amount of Claim.
- G. A copy of this Affidavit of Lien was mailed to the Property Owner as per the Affidavit of Delivery attached to this Affidavit of Lien as Exhibit A.
- H. The additional exhibits attached to this Affidavit of Lien (if any) are true and correct copies of the documents, the documents themselves offering the best evidence of its contents.

STATE OF _____
COUNTY OF _____

BEFORE ME, undersigned Notary Public, personally came and appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the facts asserted therein were true, correct and accurate to the best of his/her information and belief, and that he/she executed the document for the purposes stated therein, and in the capacity stated therein, and as the act and deed of said Claimant.

Subscribed and sworn to before me, on the ____ day of _____, 20 ____.

Notary Public

Signed this ____ day
of _____, 20 ____.

Agent for the Claimant
Signed by: _____
Title: _____

EXHIBIT A

PROOF OF SERVICE AFFIDAVIT

I, _____, being duly sworn, deposes and says that I am over the age of 18 years old, that this affidavit is made upon my own personal knowledge, and that on the ____ day of _____, 20 ____, I served the attached Affidavit of Lien to the following party at these stated addresses:

Property Owner

I served the attached document:

By personally delivering the notice to the identified parties;

By First Class Certified or Registered Mail service, return receipt requested, postage prepaid.

<p>State of _____ County of _____</p> <p>Sworn to and subscribed, after being placed under oath, before me, undersigned Notary Public, on the date inscribed to the right of this verification, acknowledgement and declaration.</p> <p>_____ Notary Public</p>	<p>Signed this ____ day of _____, 20 ____.</p> <p>_____ Agent for the Claimant</p> <p>Signed by: _____</p> <p>Title: _____</p>
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