

The mechanics lien process starts well before payment problems arise. The mechanics lien is not a standalone document. In order to keep the ability to file a mechanics lien, a one must send specific notices ahead of time, often when beginning work, far before a mechanics lien ever enters the picture. These notices are often called Preliminary Notices and Notices of Intent to Lien (NOI).



What To Know For Each Document

Each document has different requirements that vary according to a number of factors. The right column below contains the questions you'll need to answer to meet these requirements. The left column shows the factors that determine the answers to these questions for a specific party on a specific project.

- The state in which the project is located
- Your role on the project
- The role of the party that hired you
- The type of project (e.g. commercial, residential)
- When is the deadline to send or file the document?
- Who must receive the document?
- What must the document look like, and which information must it contain?
- How must the document be delivered?

STEP 1: Preliminary Notice

Sending preliminary notice is the first step in the lien process. Sometimes called pre lien notices or notices to owner, preliminary notices are sent by construction parties to inform key project stakeholders of who is working on a project. This notice also serves the purpose of protecting lien rights: most states require that lien claimants send preliminary in order to later file a valid mechanics lien.

But remember, sending preliminary notice is a precaution, not a reaction. It must be sent before a problem arises. Notices are like low-cost insurance specifically designed for the construction industry.

STEP 2: Notice Of Intent To Lien

Notice of intent to lien (NOI) is the final warning before a lien is filed. It gives the paying party one last chance to settle the bill before they face a mechanics lien.

Nine states require that lien claimants send notice of intent before filing a lien. Even if an NOI is not required, it usually doesn't hurt to send one. Parties making payment want to avoid being liened, and sending an NOI shows them you're serious while giving an opportunity to resolve the dispute. Deadlines vary in the states where NOIs are required, but the notice is always sent after preliminary notice and before a lien is filed.

Lien Waivers

You may be asked to sign lien waiver during a project. Unlike the other documents discussed here that protect lien rights, lien waivers waive (give up) lien rights. Payers often request lien waivers from payees to protect themselves against double payment - paying parties don't want to pay and have a lien filed against them.

- You may be asked to sign multiple lien waivers throughout a project (usually 1 waiver per payment).
- Be careful about waiving lien rights before you receive payment

STEP 3: Mechanics Lien

Mechanics liens are the most effective collections remedy for unpaid contractors, suppliers, and other sub-tier contractors. Filing a mechanics lien turns the job site into collateral for the payment owed to the lien claimant. Therefore filing a lien strongly motivates the liened party to resolve your payment issue.

Deadlines vary by state, but generally a mechanics lien must be filed within a specified time frame from the last day labor and/or materials were provided. Action to enforce a mechanics lien is due within a set period of time from the date the lien was filed.

What happens if you file a lien and still aren't paid? Here are a few options:

- Release the Lien
- Extend the deadline to enforce the lien
- Enforce the lien in court