Levelset Class Series 2019

Texas Lien Law 101: How to Get Paid for Texas Work This Week

Be empowered to get what you earn on every job.





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

Ted Rectanus Levelset Education Expert ted@levelset.com 504-267-1049 I help folks just like you never lose a night's sleep over getting paid.

Using Zoom

Chime in to the conversation!

Use the Chat section of the Zoom Control Panel to ask questions or add comments.

Don't be shy!



Poll: What brought you here today?

Poll: What is your typical role on a construction project?



Why construction payment issues arise

The basics of Texas lien law

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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



Poll: What is your average days to payment?

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...

Poll: What do you currently do to collect payment?

How much does slow payment, or non-payment, really cost you?

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.

Bad Debt Calculator 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.

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

Do you encounter jobs where the property owner holds retainage?

Do you supply specially fabricated materials?

Simplifying Texas Preliminary Notices

Additional Info About the Job Property Description Entire Contract Price

\$10,000.00 Retainage Provided For in Contract (Retainage)

10%

NOTICE IS HEREBY PROVIDED to you that the above-identified Party Sending Notice has a contract with the Hirting Contractor to provide the above-identified Services on the above-described Project. The Party Sending Notice's contracturators to ten percent of the contract amount, or, if available an estimated total retainage above-identified as Retainage. Regardless of the identification or moridentification of Retainage herein, bits is noted that the contract arows have a requirement for retainage, the nature of ten percent of the contract term of Retainage herein, bits is noted that the contract arows have a requirement for retainage, the nature of ten percent of the contract term of the application and paids to the Party Sending Notice at the completion of the entire project, or pursant to the terms of the application content, whichever is some. This notice is sere pursuant to Texas Property Code § 53.057 or Texas Government Code Titls 10 § 2253.047, as the case may be, and the Party Sending Notice avails itself of aling the pursuant thereto.

Additionally Sarah Test Account avails itself of Texas Property Code §53.0231(a), or Texas Government Code Title 10 §235047, as the case maybe, which provides that persons who specially labricate materials that are unuitable for use on other projects are entitled to a lien, even if thematerials are not delivered or incorporated into the work. The above-noted party maybe furnishing qualifying materials, and the order for the same has been received and accepted. The Contract Price is provided above.

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 provide 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 § 253.024, that you furnish to Srah Test Account correct or complete information, including the following information, if 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 furrished by or to the prime contractor; and (3) The name of the surcety issuit; the payment bond and the performance bond and the bit-free telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, for obtaining information concerning licensed insurance companies.

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.



Sarah Test Account Signed by Sarah Toulmin, Authorized and Disclosed Agent Signed on August 12, 2019

Want more information on this project? Visit levelset.com/talk and enter 2589524

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	Commercial	Public
	Jobs	Jobs	Jobs
Your Role	Notice	Notice	Notice
	Requirements	Requirements	Requirements
GC/Prime (Contracted directly with owner)	No Notice Required	No Notice Required	No Notice Required
First Tier Sub	2 Month Notice	3 Month Notice	3 Month Notice
(Contracted	(Send Certified Mail	(Send Certified Mail	(Send Certified Mail
with GC)	to Owner & GC)	to Owner & GC)	to GC & Surety)
Second Tier Sub (Did not contract with GC or Owner)	2 Month Notice (Send Certified Mail to Owner & GC)	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 June or July 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		Friday 9/13
July 2019	Friday 9/13	Tuesday 10/15
August 2019	Tuesday 10/15	Friday 11/15
September 2019	Friday 11/15	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

DUE THIS WEEK!

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Month

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Missing or Incorrect Data? Visit zlien.com/f

Prime Contractor:

Property Owner:

Sarah Toulmin 43 Fort Pond Road

New Orleans, Louisiana 70130

Acton, Massachusetts 01720

Michael Kungl 4819 Prytania Street

TEXAS NON-RESIDENTIAL

You've received a Monthly Notice

The enclosed document was sent by a contractor or supplier on your construction job to notify you of outstanding debts.

Some states require contractors or suppliers to send a monthly notice to inform project stakeholders of outstanding invoices or payment applications.

Hiring This document is waiting for you online.

- No need to scan or fax
- Download and share instantly
- · Communicate with the sender and other project contacts via online messaging
- Exchange waivers for free

Go to www.levelset.com/monthly-notice

Your reference number is on the next page.

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ed to inform you that the herein-identified Notifying Party s on the herein-identified Project, and specifically, that in wed money on the account for said Services. As of the e to the Notifying Party is herein-identified as the "Total due for the specific month for which this Notice has or work performed, or materials delivered, in the above

are required to inform you that if the claim remains and the owner's property may be subjected to a lien

contractor for payment of the claim; or

lotifying Party makes demand upon you for payment of i, and request that you forward to us any funds held for ess the original contractor disputes this claim, as per law. ection 53.053 or is past due according to the agreement

Signature:

Johny Doe

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

Property where improvements and/or construction is bein described as follows (the "**Property**"): 1 Not Real Lane, S County

Description of work performed by the party sending notice Drywall materials

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0007132011701005737334

EVELSET

This notice was sent to you by a company that's using Leveluet for a seamless document exchange.

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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>



BONUS Step 2: Invoice Reminders!

Also after Invoicing Everyone needs to pay invoices - that's a fact of life. Levelset now offers Invoice Reminder documents!

- Required monthly notices have deadlines that are due a good amount of time from when invoices get distributed
- Invoice Reminders allow you to get those invoices on your customers' radar in an official way without sticking to required lien law deadlines
- Good option for after invoicing but before sending escalation documents

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
January 2019	Monday 4/15	Wednesday 5/15	Monday 4/15
February 2019	Wednesday 5/15	Friday 6/14	Wednesday 5/15
March 2019	Friday 6/14	Monday 7/15	Friday 6/14
April 2019	Monday 7/15	Thursday 8/15	Monday 7/15
May 2019	Thursday 8/15	Friday 9/13	Thursday 8/15
June 2019	Friday 9/13	Tuesday 10/15	Friday 9/13



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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

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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.



"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

Take a **proactive** approach

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

Monthly Notice Control Add-On



Easier ways to get invoices into Levelset

Integrate with QuickBooks



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



Due this week!

- → 2nd month notices for unpaid July 2019 invoices
- → 3rd month notices for unpaid June 2019 invoices

 → Liens may be due for June or July 2019 invoices

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

Order documents ASAP today or tomorrow - don't wait until the 13th to order!

2 nd Month Notice: Apr 2019 3 rd Month Notice: Mar 2019	Tuesday 6/11	Friday 6/14
2 nd Month Notice: May 2019 3 rd Month Notice: Apr 2019	Wednesday 7/10	Monday 7/15
2 nd Month Notice: Jun 2019 3 rd Month Notice: May 2019	Monday 8/12	Thursday 8/15
2 nd Month Notice: Jul 2019 3 rd Month Notice: Jun 2019	Tuesday 9/10	Friday 9/13
2 nd Month Notice: Aug 2019 3 rd Month Notice: Jul 2019	Thursday 10/10	Tuesday 10/15
2 nd Month Notice: Sep 2019 3 rd Month Notice: Aug 2019	Tuesday 11/12	Friday 11/15
2 nd Month Notice: Oct 2019 3 rd Month Notice: Sep 2019	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.



Levelset's Free **Construction Legal** Center

Support

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

Poll: On a scale of 1-4, how helpful was today's session?