

PROTECTING LIEN AND BOND CLAIM RIGHTS IN 2013 AND BEYOND

WHO	WHAT	WHEN	HOW	IF YOU DON'T
Owner	Designate Lien Agent ¹ on all Private Projects >\$30,000 except owners who are contracting to construct their own residences	Prior to Contracting	1-List Lien Agent's Contact Information ² in the building permit; or, 2-Provide Lien Agent's Contact Information to the Inspection Department in the County where the project is located; or, 3-Post a sign at the project giving the Lien Agent's Contact Information; or, 4-If Subcontractor or Supplier requests the Lien Agent's Contact Information in writing the Owner must provide the Contact Information to the Subcontractor or Supplier within 7 days by the same method of delivery as the request	Owner loses the protection of the Lien Agent statute and could be liable to unpaid subs and suppliers who are damaged by Owner's failure to comply.
	Notice of Contract on Private Projects [See Form A]	Within 30 days of the issuance of the permit on the Project or within 30 days of the date the contract is awarded to the GC	1-Post on the Property in a visible location next to the Building Permit; and, 2-Files in the office of the Clerk of Court for the county in which the Project is located.	Owner loses benefit of the statutes that cut off the subrogation lien rights of 2 nd and 3 rd tier Subcontractors who would otherwise have a Claim of Lien on the Real Property where the Project is located.

¹ Lien Agent - a title insurance company which agrees to act as an agent for the Owner on a project for the purpose of giving notice by General Contractors, Subcontractors and Suppliers

² Contact Information - name, physical and mailing address, telephone number, fax number and e-mail

WHO	WHAT	WHEN	HOW	IF YOU DON'T
	Notice of Payment to 2 nd and 3 rd tier Subcontractors which have served Notice of Subcontract on the Project	Within 5 days of each payment to the GC on the Project	Statute is silent on means of delivery, but <u>it is good practice to deliver this to 2nd and 3rd tier Subcontractors by means that would show a written proof of delivery</u>	Owner loses benefit of the statutes that cut off the subrogation lien rights of 2 nd and 3 rd tier Subcontractors who would otherwise have a Claim of Lien on the Real Property where the Project is located.
General Contractor	Notice to Lien Agent on Private Projects [See Form B]	The day the GC contracts with the Owner – this notice must be received by the Lien Agent <u>no later than 15 days</u> after the First Furnishing of Labor or Materials on the Project	1-Certified Mail – return receipt requested; or, 2-Signature Confirmation as provided by the USPS; or, 3-Hand delivery with a signed delivery receipt; or, 4-Fax – with a fax confirmation; or, 5-Deposit if Notice with FedEx or UPS and proof of delivery (signature); or, 6-E-mail with a delivery receipt	May lose rights to file a Claim of Lien against the property if property is conveyed or refinanced prior to the filing of a Claim of Lien
	Notice of the Lien Agent's Contact Information to Subcontractors and Suppliers who do not furnish labor on	The day the GC contracts with the Sub or Supplier – must be delivered no	1-Certified Mail – return receipt requested. 2-Signature Confirmation as provided by the USPS 3-Hand delivery with a signed delivery receipt	May be liable to Subcontractor or Supplier for actual damages incurred for failure to give notice. General Contractor may become personally liable for lower tier Subcontractors or

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	<p>the site of the Private Project</p> <p>[See Form C]</p>	<p>later than 3 business days from the date of contracting</p>	<p>4-Fax – with a fax confirmation 5-Deposit if Notice with FedEx or UPS and proof of delivery (signature) 6-E-mail with a delivery receipt; <u>or</u> 7- <u>Include the Lien Agent's Contact Information in a written subcontract</u></p>	<p>Suppliers bills if they lose lien rights due to GC's failure to give notice.</p>
	<p>Claim of Lien on Real Property – The Claim of Lien must contain a certification that it has been served on the Record Owner in accordance with the Statute</p> <p>[Consult your attorney]</p>	<p>Within 120 days of the last date of furnishing labor or materials to the Property</p>	<p>1-File the Claim of Lien in the office of the Clerk of Court for each county in which the real estate on which the Project is located; and, 2-Hand delivery to the Service Address for the Record Owner; or, 3-Mailing to the Service Address for the Record Owner; or, 4-Send a copy to the Record Owner via FedEx or UPS. <u>There is no requirement of a delivery receipt and the service is complete upon personal deliver or mailing.</u></p>	<p>The Claim of Lien is invalid and cannot be enforced against the property.</p>
	<p>Notice of Contract on Private Projects</p> <p>[See Form A]</p>	<p>Within 30 days of the issuance of the permit on the Project or within 30 days of the date the contract is</p>	<p>1-Post on the Property in a visible location next to the Building Permit; and, 2-File in the office of the Clerk of Court for the county in which the Project is located</p>	<p>GC loses benefit of the statutes that cut off the subrogation lien rights of 2nd and 3rd tier Subcontractors who would otherwise have a Claim of Lien on the Real Property where the Project is located.</p>

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		awarded to the GC		
	Notice of Payment to 2 nd and 3 rd tier Subcontractors who have served Notice of Subcontract on the Project	Within 5 days of each payment to the GC on the Project	Statute is silent on means of delivery, but <u>it is good practice to deliver this to 2nd and 3rd tier Subcontractors by means that would show a written proof of delivery</u>	GC loses benefit of the statutes that cut off the subrogation lien rights of 2 nd and 3 rd tier Subcontractors who would otherwise have a Claim of Lien on the Real Property where the Project is located.
	Furnish a Project Statement to all Subcontractors and Suppliers on Public Projects [See Form D]	The day the GC contracts with the Sub or Supplier	The statute is silent on the means necessary to furnish the Project Statement <u>but, a good practice would be to include the Project Statement in a written subcontract or deliver it in one of the ways listed above so that there is written proof of delivery</u>	The General Contractor cannot enforce its contract against a Sub until it delivers the Project Statement to its Sub.
	Furnish a copy of the Payment Bond to any Claimant	Within 7 days of the receipt of a written request by a Claimant	The statute is silent on the means necessary to furnish a copy of the Payment Bond, <u>but good practice would be to deliver by means that delivery can be confirmed.</u>	The General Contractor loses the benefit of the Notice of Bond Claim requirements for Subcontractors and Suppliers which did not deal directly with the General Contractor
Subcontractors	Notice to Lien Agent On Private Projects	The day the Sub contracts with the GC – this notice	1-Certified Mail – return receipt requested. 2-Signature Confirmation as provided by the USPS	May lose rights to file a Claim of Lien against the property if property is conveyed or refinanced prior to the filing of a Claim of

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	[See Form B]	must be received by the Lien Agent <u>no later than 15 days</u> after the First Furnishing of Labor or Materials on the Project	3-Hand delivery with a signed delivery receipt 4-Fax – with a fax confirmation 5-Deposit if Notice with FedEx or UPS and proof of delivery (signature) 6-E-mail with a delivery receipt	Lien
	Notice of the Lien Agent's Contact Information to lower tier Subcontractors and Suppliers who do not furnish labor on the site of the Private Project [See Form C]	The day the Sub contracts with the lower tier Sub or Supplier – must be delivered no later than 3 business days from the date of contracting	1-Certified Mail – return receipt requested. 2-Signature Confirmation as provided by the USPS 3-Hand delivery with a signed delivery receipt 4-Fax – with a fax confirmation 5-Deposit if Notice with FedEx or UPS and proof of delivery (signature) 6-E-mail with a delivery receipt; <u>or</u> <u>7- Include the Lien Agent's Contact Information in a written subcontract</u>	May be liable to Subcontractor or Supplier for actual damages incurred for failure to give notice. Subcontractor may become personally liable for lower tier Subcontractors or Suppliers bills if they lose lien rights due to failure to give notice.
	Filing and Service of Claim of Lien by Subrogation on Record Owner and higher tier Con-	Within 120 days of the last date of furnishing labor or	1-File in the office of the Office of the Clerk of Court in each county in which the real property on which the Project is located; and, 2-Hand delivery to the Service Address	The Claim of Lien is invalid and cannot be enforced against the property.

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	<p>tractors – The Claim of Lien must contain a certification that it has been served on the Record Owner and all higher tier contractors</p> <p>[Consult your attorney]</p>	<p>materials to the Property</p>	<p>for the Record Owner and all higher tier contractors; or</p> <p>3-Mail to the Service Address for the Record Owner and all higher tier contractors; or,</p> <p>3-Send a copy to the Record Owner and all higher level contractors via FedEx or UPS.</p> <p><u>There is no requirement of a delivery receipt and the service is complete upon personal deliver or mailing.</u></p>	
	<p>Notice of Claim of Lien on Funds on Record Owner and all higher tier contractors</p> <p>[Consult your attorney]</p>	<p>No set time period – <u>but is only effective if funds are owed to a higher tier subcontractor</u></p>	<p>1-Hand delivery; or,</p> <p>2-Certified mail –return receipt requested; or,</p> <p>3-FedEx or UPS with delivery receipt and signature confirmation.</p>	<p>Claim of lien on unpaid fund is lost.</p>
	<p>Furnish a Project Statement to all Subcontractors and Suppliers on Public Projects</p> <p>[See Form D]</p>	<p>The day the Sub contracts with the lower tier Sub or Supplier</p>	<p>The statute is silent on the means necessary to furnish the Project Statement <u>but, a good practice would be to include the Project Statement in a written subcontract or deliver it in one of the ways listed above so that there is written proof of delivery</u></p>	<p>The Subcontractor cannot enforce its contract against a lower tier Sub until it delivers the Project Statement to its Sub.</p>

WHO	WHAT	WHEN	HOW	IF YOU DON'T
2 nd or 3 rd Tier Subcontractors	Notice of Subcontract on Private Projects [See Form E]	The day the Sub contracts on the Project	1-Personal delivery; or, 2-Certified mail – return receipt requested; or, 3-FedEx or UPS with a signature delivery receipt	Subcontractor loses subrogation rights to GC's and 1 st tier Sub's Claim of Lien on real property
Any Subcontractor or Supplier that does not have a direct contractual relationship with the GC	Notice of Public Subcontract on Public Projects to General Contractor or the Agent for service listed in the Project Statement [See Form E]	The day the Subcontractor enters into a contract to supply labor – must be delivered no later than 75 days after the first date of furnishing on the Project	1-Certified mail; 2-USPS with signature confirmation; 3-Any manner provided by law for service of a summons	Loss of bond claim for any amount over \$20,000
	Notice of Bond Claim on a Public Project to General Contractor or the Agent for Service listed in the Project Statement [Consult your attorney]	120 days after the last date of furnishing of labor or materials to the Project	1-Certified mail; 2-USPS with signature confirmation; 3-Any manner provided by law for service of a summons	Loss of bond claim