

CONNECTICUT MECHANICS' LIEN LAW

Chapter Survey...

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What is a Lien?

Mechanic's and materialmen's liens "cloud" the title to real property but can be an effective method (and sometimes the only method) for securing payment for labor or materials used in the improvement of real property. The lien stops the owner from selling the property with a clear title. The lien may be foreclosed in a lawsuit. The court can order that property be sold and the proceeds used to pay the contractor, subcontractor, laborer, or material supplier. This may be true even if the owner has already paid a general contractor, meaning that the owner may have to pay twice. This is one of the reasons that a lien can be such a powerful collection tool.

The Connecticut law governing mechanics' liens is found in the Connecticut General Statutes, Section 847, Liens. The state statutes and court opinions establish a strict procedure to perfect and foreclose a lien. It is strongly recommended that a professional be routinely used to record and foreclose on construction liens.



Who is Entitled to a Mechanics' Lien?

The state statutes say that "any person who has supplied labor or materials in the improvement of any plot of land, or subdivision thereof" has lien rights. This includes general contractors, subcontractors, suppliers, site work contractors, architects and engineers.

The lienor must be able to prove that labor, materials or services were provided under a contract with the owner of the property or with the owner's consent.

Contract with the Owner of the Property

Generally speaking, the general contractor has a direct contract with the owner. Subcontractors and suppliers then contract with the general contractor and subcontractors may contract with additional subcontractors. The state statute considers all of these parties under contract with the owner of the property.

Owner's Consent

Owner's consent is more difficult to prove. The lienor must prove that there was an express or implied relationship between the owner and the lienor.

Time in Which to File a Lien

A certificate of lien must be filed within 90 days after the lienor last provided materials and/or labor for the construction project. The 90-day window to file generally begins when the lienor "substantially completes" its work on the project. If work is performed after substantial completion, the 90 day window is extended. The work must be "non-trivial" and required by contract in order for this extension to be valid.

Certificate of Lien

The certificate of lien should include the following information.

- ✓ Description of the liened property
- ✓ Amount claimed as a lien (Note: *The lienor must calculate the lien accurately and honestly. If the court decides that the amount due is intentionally overstated, the lien is in jeopardy of being invalidated.*)
- ✓ Name or names of the person against whom the lien is being filed
- ✓ Date of the commencement of services or furnishing of materials

In addition, the lienor must furnish a statement that the amount claimed is "justly due, as nearly as the same can be ascertained". This statement must be "subscribed and sworn to by the claimant" meaning that the statement must be notarized under oath.

The certificate of lien must be served to the owner of the property within 30 days after filing.

Notice of Intent

Subcontractors and suppliers who do not contract directly with the owner must file a Notice of Intent in addition to the Certificate of Lien, unless the owner has already assented in writing to the contract. The Notice of Intent must contain the below information.

- ✓ Name of the general contractor
- ✓ General contractor's business address
- ✓ Description of the liened property

The notice must be served upon the owner and general contractor within 90 days after completion of the lienor's work. The statutes say the various ways in which the notice may be served and upon whom.

Serving Requirements

Service of the Certificate of Lien and Notice of Intent must be made by mailing a true and attested copy of the notice by registered or certified mail to the owner or original contractor at the place where he resides, or by personal service by a disinterested party such as sheriff or process server. If such copy is served by mail and is returned unclaimed, notice to such owner or original contractor shall be given by publication. When there are two or more owners, or two or more general contractors, the notice shall be so served on each owner and on each general contractor. The notice, with the return of the person who served it endorsed thereon, shall be returned to the original maker of the notice within 90 days.

Time Limitation of Mechanics' Lien

A mechanic's lien is valid for no longer than one year after the lien was filed unless the lienor commences an action to foreclose it. Any mechanic's lien which has expired because of failure to comply with the time limitations is automatically dissolved.

Lien Foreclosure

A lien is foreclosed by filing a lawsuit within one year after the lien has been perfected. The judge can order the sale of the land to pay the lien or can remove the lien if it is not valid. An owner can also bond around the lien. This allows the sale of the land with clear title, but also has the bond to pay the lien holder if the lawsuit is successful.

Final Inspection...

What is a Lien?: A lien can be a useful tool in securing payment for labor or materials for improvement on real property.

Who is Entitled to a Mechanics' Lien?: The lienor must be able to prove that labor, materials or services were provided under a contract with the owner of the property or with the owner's consent.

Time in Which to File a Lien: You must be aware of the timelines you have in which to file. If you exceed the timelines stated in the statute, the lien may become invalid.

Certificate of Lien: The Certificate of Lien must contain the required information and be served within 30 days after filing.

Notice of Intent: The Notice of Intent must contain the required information and be served within 90 days after completion of the lienor's work.

Serving Requirements: In order to ensure the validity of the lien, the Certificate of Lien and Notice of Intent must be properly served.

Time Limitation of Mechanics' Lien: Action to foreclose a mechanics' lien must occur within one year after filing.

Lien Foreclosure: A judge can order the sale of land to pay a lien or dismiss it if found invalid. The owner can bond around a lien to allow the sale of the land with a clear title.