

Utah Code Annotated §38-1-3—Those entitled to lien – What may be attached.

A contractor, subcontractor, and all persons performing any services or furnishing or renting any materials or equipment used in the construction, alteration, or improvement of any building or structure or improvement to any premises in any manner shall have a lien upon the property for the value of the service rendered, labor performed, or materials or equipment furnished or rented.

Utah Code Annotated §38-1-7—Notice of claim—Contents—Recording—Service on owner of property

A lien claimant must file a lien within 90 days from the date of final completion of the original contract. An “original contract” is defined as a contract between an original contractor and the owner of real property, but not a contract between an owner-builder and another person. An “original contract” exists between an owner-builder and itself.
** See filing deadline in Utah Code Annotated §38-1-33 (Notice of Completion).

An “owner-builder” is defined as an owner of real property who obtains a building permit for work on that property that will consist of more than one contract between the owner and any other person.

- This is true now for both residential and commercial projects.
- Final Completion is defined as (in order of priority):
 - the date of issuance of the certificate of occupancy;
 - the date of the final inspection; or
 - the date upon which all substantial work is completed.

The Notice of Lien requires:

- the name of the reputed owner, if known, or the record owner;
- the name of the person or entity who hired the lien claimant;
- the first and last day of work or when services were performed or when materials were furnished;
- a description of the property, sufficient for identification;
- the name, address, and phone number of the lien claimant;
- the amount of the lien claim;
- a notarized signature of the lien claimant or claimant’s representative; and
- the proper lien recovery fund notification if the lien is recorded against a residence.

□ After the lien is recorded, a copy of it must be delivered or sent via certified mail to the reputed or record owner of the property within 30 days.

Utah Code Annotated §38-1-11–Enforcement–Time for–Lis pendens–Action for debt not affected–Instructions and form affidavit and motion.

□ In order to enforce the lien and foreclose upon it, a lien claimant must:

- file an action to foreclose on a residence within 180 from the date the lien is recorded, regardless of whether the project is a residential or commercial project.

- A lis pendens must be filed with the county recorder’s office within 180 days from the date the lien is recorded, as well.

□ If the project is a residence, when the Complaint is served on the property owner, the claimant must include instructions to the owner relating to the owner’s rights under the Utah Residence Lien Restriction and Lien Recovery Fund Act, and, a form affidavit to allow the owner to specify the grounds upon which he or she may exercise available rights under the Utah Residence Lien Restriction and Lien Recovery Fund Act.

Utah Code Annotated §38-1-27– State Construction Registry (“SCR”)

□ This statute creates an online registry which is now the central repository for Notices of Commencements, Preliminary Notices, and Notices of Completion. These notices are filed online in this registry. The website is <http://www.utah.gov/cnr/>. The party must create an account with SCR and pay the appropriate fees, then enter the required information in the appropriate fields.

Utah Code Annotated §38-1-28–Notice of release of lien and substitution of alternate security. (Lien Release Bond)

□ Must file this within 90 days after service of a summons and lien foreclosure Complaint.

- 150% of amount if lien claim is for \$25,000.00 or more,
- 175% of amount if lien claim is \$15,000.00 to \$24,999.99,

- 200% of amount if lien claim is for less than \$15,000.00

Utah Code Annotated §38-1-31–Building permit–Construction–Notice registry–Notice of commencement of work

Where building permit is issued to an original contractor or an owner-builder, the local government entity shall input the building permit information creating a Notice of Commencement within 15 days of the issuance of the building permit.

Where a building permit is not issued, the original contractor or owner-builder may file a notice of commencement with the database within 15 days after the commencement of physical construction work on the project site.

An owner or an original contractor may file a notice of commencement within 15 days of physical work being begun on the project.

If a notice of commencement is not filed within the time set forth, preliminary notices are not necessary to preserve the lien rights.

Utah Code Annotated §38-1-32–Preliminary notice – Subcontractor or supplier.

Except for a person who has a contract with an owner or owner-builder, any person who performs work on a project or supplies material shall file a preliminary notice with the State Construction Registry within the later of:

- 20 days after commencement of its own work or supplying materials, or

- 20 days after the filing of a notice of commencement.

If a subcontractor or supplier does not file a preliminary notice within 20 days after its first work or supplying or materials, it may still file a preliminary notice, however the preliminary notice becomes effective 5 days after the date which it is filed.

If a person who is required to file a preliminary notice fails to file the preliminary notice, that person may not hold a valid lien.

Utah Code Annotated §38-1-33– Notice of completion.

An owner, original contractor, lender, surety, or title company may file a notice of completion with the State Construction Registry.

- **Notwithstanding the time filing requirements in Utah Code Annotated §38-1-7, a person claiming a lien shall file the notice of claim of lien within:

- 90 days after the filing of a notice of completion, or

- 180 days after final completion, if no notice of completion is filed under this section.

If a notice of completion is filed, then a subcontractor or supplier must file its preliminary notice within 10 days of the date of the filing of the notice of completion.