

## FAQ: If We're Promised Payment, Should We Wait To File A Mechanic's Lien?

**Short Answer:** No. You only have once chance to file a mechanics lien, and once that period expires, your lien rights are gone forever. Promises of payment will not extend your lien period. When unpaid on a construction project, you should file your mechanics lien.

**Long Answer:** The experience of applying for and receiving payment in the construction industry is unlike the experience in any other industry. Calculating the amount due requires accurate estimations of work performed, and those estimations are forwarded up the contracting chain where, after they are approved, the payments must flow back down the chain. The process is complex, can be time consuming, and as every contractor or suppliers know, money can leak through cracks along the way.

While money is being passed up and down the chain, the window for you to filed a mechanics lien may be closing. In most states, a mechanics lien must be filed within a specific time period after a company last furnishes labor or materials. This period can be as short as 30 or 45 days in some states.

A mechanic lien may cause money flow problems at the project, and when general contractors allow liens against a project, those contractors are frequently considered in breach of their contract with the property owners. As a result, many on a construction project will ask parties to not file a Mechanic's lien, promising that payment is soon forthcoming.

There are two problems with these promises.

First, you may not be part of the negotiations between a general contractor and the property owner, and thus don't know whether payment really is forthcoming. The owner may have a reason for holding payment that is not being communicated to you (workmanship flaw, delay, etc.). The promise to pay, in other words, may be an empty one.

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Second, the promise will not slow down your state's mechanic lien deadlines. We wrote a blog post about this in the past called: [Promises To Pay Mean Squat To Your Mechanic Lien Deadlines](#).

To conclude, filing a mechanic lien is a great collections tool; check out these blog postings about [why liening is important](#). If you're promised payment on a construction project, it may be worth waiting a little while before filing a lien, but be very cautious about your lien deadline, since promises to pay will not stop the deadline from expiring. And once your lien deadline goes by, so do your liens.

Read this article on the Construction Lien Blog here:  
<http://constructionlienblog.com/?p=2341>

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