

Mechanic's Liens in Virginia: An Exception to the Rule

[Construction Law Musings](#) has discussed mechanic's liens on [numerous occasions](#).

As discussed in earlier posts, the *general* rule is that a [mechanic's lien](#) jumps to the head of the line of liens when filed. This is true in most instances. In the typical case, a contractor puts up a building and, when the owner refuses payment, it files a mechanic's lien that takes priority over all other liens on that property, including the construction loan [deed of trust](#) (or [mortgage](#), depending on your state's property laws).

However, in Virginia, an [exception](#) exists. The [Virginia Code](#) provides that in a case where there is a loan on the land with a deed of trust, and then a construction loan with its own security in the land, the first lien holder can enforce its lien up to the value of the *original* and *unimproved* land on which it placed its lien. The mechanic's lien holder takes priority on any value added to the property based on any improvements (i. e. the building itself) over *any other liens*.

When the construction loan is secured by the same deed of trust as the purchase loan, the mechanic's lien takes precedence. Of course, these are the general rules. Your particular situation must be examined carefully by an [attorney](#) or other professional experienced in mechanic's liens to determine the priority of your lien.