

Mississippi Lien Law Now Allows Suit Filing in County Court and Clarifies Statutory Lien Period

Mississippi Governor Barbour just signed [Senate Bill 2363](#) into law, which makes small amendments to the Mississippi mechanic liens laws; specifically M.S. § 85-7-141.

Filing Allowed in County Court

Every state's court system has levels of trial courts with varying jurisdiction. In Mississippi, there are county courts with concurrent jurisdiction "in all matters of law and equity" up to \$200,000 (§9-9-21). All matters over \$200,000 must be filed in a circuit court.

Until this recent lien law amendment, Mississippi law stated that lawsuits to foreclose on a mechanic lien must be filed in circuit court. According to a [memorandum](#) filed by [Sharpe & Wise, PLLC](#), the failure to mention county courts "has left Mississippi construction lawyers hesitant to file to enforce a lien in any other court but a circuit court."

The new law simply adds "or county court" to the statute, removing any doubt that lien foreclosure actions can be filed in such courts.

While this appears to be a minor change, the amendment can turn out to be quite significant for lien claimants. Since mechanic liens are less than \$200,000, being allowed to file suit in a county court will allow these claims to be more efficiently administered.

Statutory Period To File Enforcement Action Clarified

As anyone who reads this blog is well aware, a mechanic lien must be enforced or foreclosed after filing to avoid expiration. The critical question for claimants is when such a lawsuit is required. While each state has a different period (i.e. 8 months in Washington, 90 days in California, 1 year in Louisiana, etc.), it's typically easy to figure out when that period starts and ends in most states.

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There was trouble with this in Mississippi. The previous statute required filing "within twelve months next after the time when the money due and claimed by the suit became due and payable, and not thereafter." As the Sharpe & Wise memorandum explained, this language left open questions of when exactly this date occurred. The new law, however, clarifies this period, and in the process, makes it match the limitation applicable to enforcement of Mississippi payment bonds.

The new law provides that suit must be filed:

[W]ithin twelve months next after the time when the money due and claimed by the suit became due and payable following the day on which the last of the labor was performed or material or rental or lease equipment was supplied by the person bringing the action.

Special Thanks

Special thanks to [Robert Wise of Sharpe & Wise, PLLC](#), for calling this law change to our attention. Mr. Wise's wife, Suzanne Sharpe, was the legislative strategist for this lien law amendment. Mr. Wise and Ms. Sharpe also worked together on the [SB 2800 amendment last year, which resulted in including equipment lessors as those protected by Mississippi mechanic lien laws](#).

Read this article on the Construction Lien Blog here:
<http://constructionlienblog.com/?p=2331>

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