

[150 Reasons to Talk to a Construction Lawyer Early in a Project](#)



I hope that headline got your attention because this is a reminder to contractors and subcontractors that the [Virginia mechanic's lien statute](#) has several different time limits. One is the 90 day statute of limitations on filing your memorandum. This "90 day rule" is generally well known among construction professionals I talk to and work with on a daily basis.

A limit that is less familiar (often because most trades were not on a project long enough for this limit to kick in) is the so called "150 day rule." The 150 day rule states that a contractor or subcontractor can only capture money owed for work performed or materials furnished to a project *within 150 days of the last day on which the contractor performed work or the date of filing of the lien*. Retainage or retention is not subject to this rule.

This limitation is a big one because including money in a lien to which a contractor or subcontractor is not entitled will lead to the invalidation of the lien regardless of the amount of the overage. Prior to the change in the economy, this limitation most affected site contractors and others that were "first in and last out" of a project. With the economy for construction being slow in recent years, project delays, temporary stoppages and flat out slowdowns in payment have put more general contractors and trades in the cross hairs of this look back limitation on what can be included in the lien.

A silver lining to the potential dreariness caused by this rule is the fact that the statute allows multiple liens. In other words, if you are not getting paid for work at the beginning of the project, you (and preferably with the counsel and early assistance from your [experienced construction attorney](#)) can file one lien for the first 150 days of work and another later to catch the later work if necessary. Also, one more simple method to make sure that this limitation is kept at bay is to make sure that the oldest invoices or pay applications are paid first, thus front loading any accounts receivable.

The 150 day rule is here to stay. In an economy where [mechanic's liens may be the best \(and possibly only\) protection](#) for a construction professional on a particular construction project, keeping it in mind is a requirement for any construction company and its [legal counsel](#).

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