

Express Lien

South Dakota Lien Punchlist (Private)

Preliminary Notices

- **Prime Contractor:** Prime contractors may file a Notice of Project Commencement to protect the prime from liens filed, via subrogation, by sub-subcontractors and suppliers. This must be filed with the Register of Deeds in the county where the project's property is located, and must be filed within 30 days of commencement of the work. In addition to this filing, a Location Notice must be posted at the job site stating that the Prime Contractor has so filed the Notice of Project Commencement.
- **Sub-Subcontractors/Suppliers to Subcontractors:** Notice is required only if the Prime Contractor has filed a Notice of Commencement, in which case, sub-subcontractors and suppliers to subcontractors must provide a "Notice of Furnishing Labor or Materials" to the prime contractor identified in the Notice of Commencement and to the Owner. The notice must be served by certified or registered mail to the contractor and owner. Notice must be provided *no later than 60 days* after last furnishing labor and/or materials to the project. Prime Contractors are required to post a "Location Notice" at the jobsite to advise those on the project if a Notice of Commencement has been filed.

THE MECHANICS LIEN

On private projects, Subcontractors and suppliers of all tiers have some protections under South Dakota's lien laws.

- Referred to as "Lien Statement"
- Must be filed within 120 days after the last day labor and/or materials are furnished to fulfill the requirements of the project.
- Lien expires if it is not foreclosed upon within six years after filing. Owner can make demand to commence suit to enforce lien, whereupon suit must be filed within 30 days of the demand.

UNIQUE FEATURES OF SOUTH DAKOTA LIEN LAW

- Property Owner may serve a "Owner's Demand for Lien Account" to any potential lien holders, requesting the lien holder to furnish the owner with an itemized and verified account of any lien claim. The owner must make this request within 15 days after contract completion. Any potential lien holder who receives this demand may not commence an action to enforce a lien until 10 days after furnishing the demanded statement.

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