

Want to Stay Up on Your Mechanic's Lien Deadlines? Write a Letter or Two

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(Photo credit: Wikipedia)

90 days. 150 days. 6 months. 30 days. Do these numbers sound familiar? If you read [Construction Law Musings](#) regularly, they should be. These are various deadlines relating to the recording and enforcement of [mechanic's liens in Virginia](#).

90 days from your last work performed (or from the last date of the last month of work in the correct circumstances) sets the outside limit on when a construction company can record a lien on a construction project. [150 days is the "look back" period](#) for what work's value can be included in that lien. 6 months is the statute of limitations for the filing of an enforcement suit. Finally, 30 days amount of time

after your start of work within which you, as a construction professional, must notify a mechanic's lien agent of your presence on a *residential project*. Of course, there are always nuances to these rules that need to be taken into account, preferably with the help of your [friendly neighborhood construction attorney](#), before deciding how to proceed in this [very picky and "form over function"](#) area of construction law.

This post focuses on the first of the general deadlines, the "90 day rule" and a good practice to follow to both help with collections and avoid missing this all important deadline. That practice is to get in the habit of writing 30 and 60 day letters. What do I mean by this? I mean that when 30 days have passed from your last work that remains unpaid, write to the party that owes the money, whether owner, general contractor or subcontractor up a "tier" from your position, and let them know that the balance is old and that you demand payment. Should you fail to receive that payment, write a slightly more stern letter to that same party at 60 days adding that your lien time is running out and you'll have to move swiftly to preserve those rights if payment isn't quickly forthcoming, and include a copy to your attorney.

These letters have a two fold purpose. The first is to hopefully get paid without the necessity of further liens or attorney involvement. This is the ideal result. However, the second reason for these letters is as an internal reminder of the ticking of the mechanic's lien clock. The 60 day letter described above, and the copy to your attorney, will trigger the investigation and preparation of a lien (title search, drafting, etc.) in plenty of time to meet the 90 day deadline. This action keeps from having to scramble and will lower the possibility for a minor error that could sink your lien.

As always, I welcome your comments below. Please [subscribe](#) to keep up with this and other Construction Law Musings.

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