



No Time Left to File a Lien...What Can a Contractor Do?

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Contractors often hear about the importance of filing a mechanic's lien if they are not paid for a particular job. However, what is not often discussed is what to do if the contractor is out of time to file a lien. Though a lien is a favorable remedy, it is not the only remedy.

Liens are discussed more widely due to the benefits they provide to an unpaid contractor. First, once a lien is filed, the contractor actually acquires a secured interest in the real estate itself. A lien allows the contractor to file suit against parties with whom the contractor has a contract. For example, it allows a subcontractor to file suit against the property owner even if he did not contract with the property owner.

Ohio mandates that most liens be filed within 75 days from the date the contractor last provided work or materials. An exception is that contractors only have 60 days for which to file a lien on certain residential dwellings.

Even if time has run out to file a lien on a particular project, there are still alternative legal remedies to recover payment. However, these rights are exclusively against the party with whom the contractor has a contract. Generally, the strongest remedy would be a breach of contract action. The period in which to file such a suit is considerably longer than that for filing a lien. In Ohio, the contractor generally has 6 years to bring a suit where the contract is not in writing and 15 years where the contract is in writing. Special circumstances may shorten or lengthen these timeframes; you should consult an attorney to determine your available courses of action.