

Mechanic's Liens in Arizona*

On most non-residential (where a resident does not live in the home) construction projects, most anyone that provides services or materials may file a mechanic's lien for the amount owed. There are set steps that need to be strictly followed or the right is lost.

Arizona law requires that every person (except for a person performing actual labor for wages) who furnishes labor, professional services, materials, machinery, fixtures or tools to a construction project, within 20 days of commencing work, provide written notice, called a *preliminary twenty-day notice*, of their statutory lien rights to the home owner, construction lender, original contractor, and the person with whom the claimant has contracted.

The amount of time a claimant has to record the actual *mechanic's lien* depends on whether the owner files a *notice of completion* of the project. Filing a notice of completion is optional for the owner of the property, but if it is filed, the period of time for which the claimant has to file a lien is 60 days from the recording of the *notice of completion*; otherwise, it is 120 days from the *completion* to file the lien.

Completion is defined, if a governmental permit final inspection is required, as the earliest of the following events: 1) 30 days after final inspection and written final acceptance by the governmental body that issued the permit, or 2) cessation of labor for 60 days. In the event no building permit is issued or if the governmental body that issued the permit does not issue a final inspection and acceptance, then the completion is the last day on which labor, materials, fixtures, or tools were furnished to the property.

Once a lien is recorded, the lienholder must judicially foreclose on the lien within 6 months of recording or it will no longer exist. An owner may discharge the lien by posting a bond 1.5 times the amount claimed and the lien holder then must proceed against the bond and obtain a judgment.

WHO MAY FILE A MECHANIC'S LIEN IN ARIZONA AND FOR WHAT?

In a commercial project, most anyone that provides services or materials may file a lien for the amount owed. In a residential project, the entity or individual must have a contract directly with the owner.

Any contractor, whether general or subcontractor, must have a valid license issued by the Arizona Registrar of Contractors in order to have lien rights against an owner's property.

The lien is given a 20% variance over the stated amount, but must be amended and served if the amount owed increases over that amount.

Contractor licensing is required for "any business which contracts or offers to contract to build, alter, repair, add to, subtract from, improve, move, wreck or demolish any building..., or to do any part of the work" detailed above.

Exceptions to the licensing requirement include a small “handyman exception” for small dollar amounts that are not part of a larger project. There is also an exception for manufacturer-installers that install their own product.

***This is provided for informational purposes only and should not be considered as legal advice nor does it create an attorney client relationship. If you have a need or interest concerning Mechanic’s Liens, please consult a qualified attorney.**