

## PA to Establish Construction Notices Directory to Further Regulate Mechanics' Lien Claims

The Commonwealth is to establish a Construction Notices Directory by December 31, 2016, although that date may be delayed. When the Directory becomes operational, owners of construction **projects over \$1,500,000.00** will have the option of filing a Notice of Commencement. If a Notice of Commencement is filed, subcontractors and sub-subcontractors on the project must file a Notice of Furnishing within 45 days after first performing work or providing materials to the project. **Subcontractors and sub-subcontractors who fail to do so will forfeit their right to file a mechanics' lien claim.**

The Notice of Commencement to be filed by owners must include the following information:

- Full name, address and e-mail address of the contractor;
- Full name and location of the project;
- The county where the project is located;
- The legal description of the property, including tax identification number(s);
- Full name, address and e-mail address of the property owner and the project owner;
- If applicable, the full name, address and e-mail address of the surety for the performance and payment bonds and the bond numbers;
- The unique identifying number that is assigned to the Notice of Commencement; and
- The number of the building permit for the project.

The owner must ensure that the Notice of Commencement is conspicuously posted at the site before physical work begins. The Notice of Commencement must also be included in the contract documents provided to subcontractors and sub-subcontractors. There will be a fee for filing the Notice of Commencement. Further, each contract for the project must include the following notice:

"A subcontractor that fails to file a Notice of Furnishing on the Department of General Services publicly accessible Internet website as required by the act of August 24, 1963 (P.L. 1175, No. 497), known as the Mechanics' Lien Law of 1963, may forfeit the right to file a mechanics lien. It is unlawful for a searchable project owner, searchable project owner's agent, contractor or subcontractor to request, suggest, encourage or require that a subcontractor not file the required notice as required by the Mechanics' Lien Law of 1963."

The mechanics' lien statute includes a form for the Notice of Furnishing to be filed by subcontractors and sub-subcontractors. General contractors are not required to file a Notice of Furnishing.

There are civil and criminal penalties for anyone who suggests, requests, encourages or requires that a subcontractor not file a Notice of Furnishing.

The Directory will provide owners with a list of all subcontractors and sub-subcontractors who may be lien claimants and should be required to provide lien waivers upon payment. Owners will also benefit if any subcontractors and sub-subcontractors fail to file a Notice of Furnishing and therefore lose their mechanics' lien rights.

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