

CONSTRUCTION LIEN PROCEDURES

The "**LIEN NOTICE**" form must be sent to the owner of the property by a sub-contractor (someone hired by a prime contractor), within 60 days after furnishing first labor or materials on the property. This Notice is not required to be sent to the owner by a prime contractor or on commercial buildings over 10,000 sq ft. See 779.02, Wis. Stats.

The "**NOTICE OF INTENTION TO FILE CLAIM FOR LIEN**" must be sent to the owner of the property if the sub-contractor did not get paid. This notice must be sent 30 days prior to filing a "**CLAIM FOR LIEN**" with the Clerk of Court.

The "**CLAIM FOR LIEN**" must be filed with copies of the "**LIEN NOTICE**" and "**NOTICE OF INTENT TO FILE CLAIM FOR LIEN**" and proof of service of those documents on the property owner.

A. Construction lien law is contained in Ch. 779, Wis. Stats.

B. The following persons have lien rights:

1. A prime contractor.
2. A person who contracts directly with a land owner.
3. A person who provides labor or materials for the construction (a subcontractor, or a laborer or mechanic employed by a prime contractor or subcontractor).

C. In order for a person to exercise these rights, the following must happen first (exceptions to this are contained in paragraph D):

1. A prime contractor must notify the land owner in writing that: (1) he/she; (2) any person who contracts directly with the landowner; and, (3) any person who gives the land owner notice of his/her rights within 60 days after they first furnish labor or materials for the construction have lien rights. The language of the notice is contained in sec. 779.02(2)(a); and,

2. Any person other than the prime contractor who furnishes labor or materials for the construction gives written notice of his/her lien rights to the land owner within 60 days after first furnishing labor or materials. The language of the notice is contained in sec. 779.02(2)(b).

D. The notices of lien rights identified in paragraph C are not required to be given by:

1. Any laborer or mechanic employed by any prime contractor or subcontractor.

2. Any lien claimant other than a prime contractor who has contracted directly with the owner for the work or materials furnished.

3. Any lien claimant furnishing labor or materials for an improvement where:

a) more than 4 family living units are to be provided or added, if the improvement is wholly residential in character; or

b) more than 10,000 total usable square feet of floor space is to be provided or added, if the improvement is partly or wholly nonresidential in character.

4. Any prime contractor who is personally an owner of the land to be improved, by any corporate prime contractor of which an owner of the land is an officer or controlling shareholder, by any prime contractor who is an officer or controlling shareholder of a corporation which is an owner of the land, or by any corporate prime contractor managed or controlled by substantially the same persons who manage or control a corporation which is an owner of the land.

5. By any lien claimant, other than a prime contractor, who furnishes labor or materials for an improvement on a project on which the prime contractor is not required to give a notice of lien rights.

E. If a person desires to enforce lien rights, he/she must serve on the land owner, at least 30 days before filing a claim for lien, a written Notice of Intention to File Claim for Lien. This is required regardless of whether the person was required to give notice of lien rights under paragraph C. See sec. 779.06(2), Stats.

F. After the Notice of Intention to File Claim for Lien is served on the land owner, a Claim for Lien shall be filed in the Clerk of Court's office. It must be filed within 6 months from the date the lien claimant furnished the last labor or materials on the improvement. The Claim for Lien shall have attached to it a copy of any notice of lien rights given under Paragraph C and a copy of the Notice of Intent to File Claim for Lien. See sec. 779.06(1)8(3), Stats. The required filing fee to be paid to the Clerk of Court is \$5.00.

If you would like the Construction Lien forms mailed to you, please submit your request with a \$5.00 form fee to the Clerk of Court's office at 1101 Carmichael Road, Hudson, WI 54016.