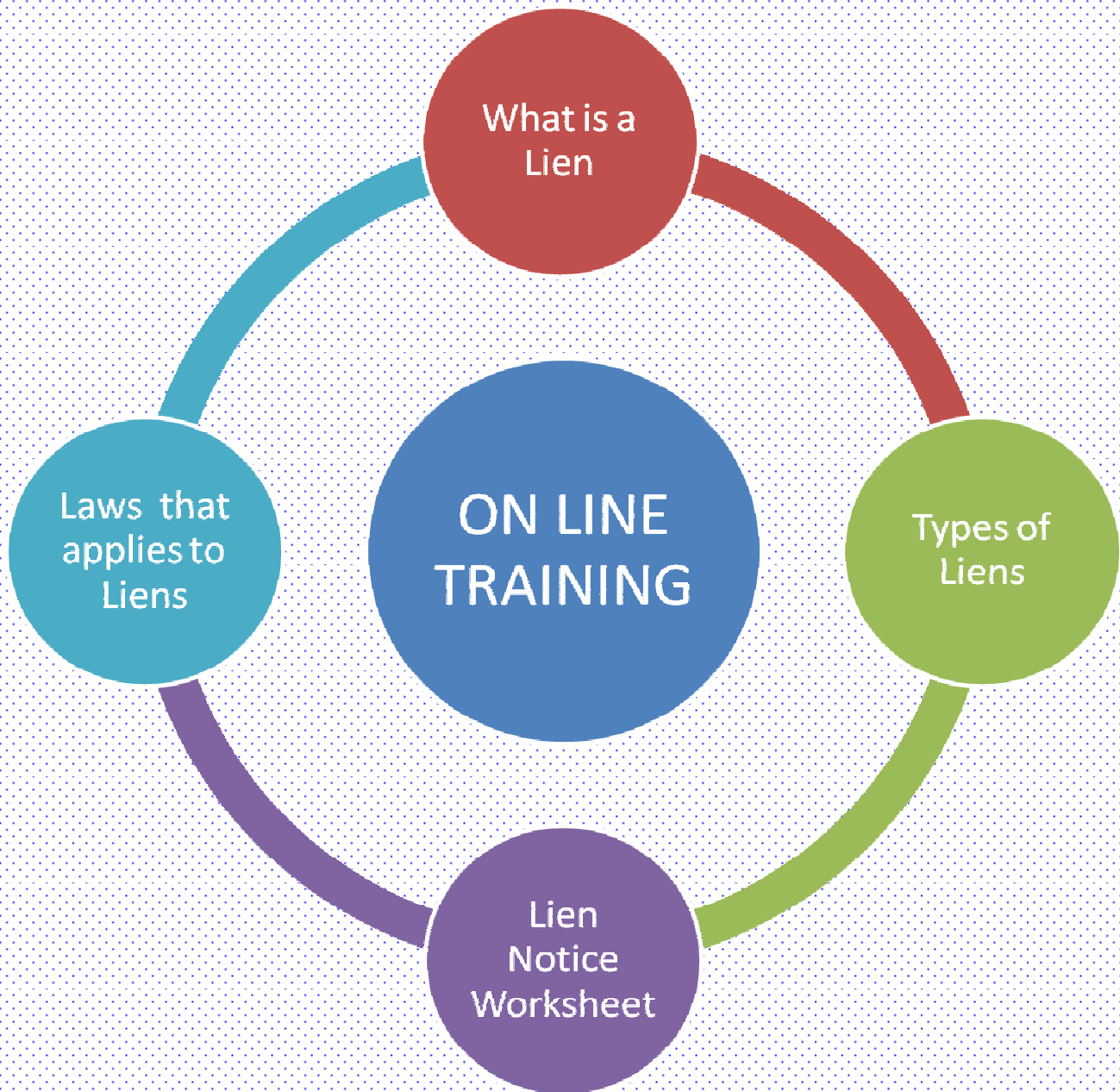


CONSTRUCTION MECHANIC LIENS



January 2017



What is a Lien?

What is a Lien?

- A lien is a charge against property that provides security for a debt or obligation of the property owner.
 - A mechanics lien arises when someone furnishes labor or materials to improve the property.
 - A worker or supplier who is not paid may establish a lien by filing an affidavit with the county clerk of the county in which the property is located and sending a copy of the affidavit by registered or certified mail to the property owner.
 - A mechanics lien may be foreclosed only by a judgment of court ordering the sale of the property subject to the lien.
- Laws That Applies to Liens?**
- **Private Project (Residential or Commercial) - Texas**
 - **Property Code Chapter 53**
 - **State Government—Texas Government Code Chapter 2553**
 - **Federal Government—Miller Act, 40 USCA § 270A**
 - **Constitutional Lien Texas Constitution Article XVI § 37**
- This allow contractors a lien for construction or repair of buildings and articles **NOT** improvements. Public property is not subject to the constitutional lien.*
- ORIGINAL CONTRACTOR ONLY**
- Statutory Lien Texas Property Code Chapter 53**
- provides a statutory procedure to perfect a mechanic and material lien on private property



Commercial Construction Lien

How To File A Mechanics Lien For Commercial Construction

- Step 1:** *A Notice of Unpaid Balance should be sent to the owner of the property by every subcontractor (with a copy to the original contractor) for any month in which any unpaid balance remains, except contractual retain age for which a timely Notice of Agreed Retainage has been sent to the owner.*
- Step 2:** *This Notice of Unpaid Balance is required to be sent no later than the 15th day of the third calendar month following the month in which the unpaid work was performed or material delivered. The notice is not required if you have a written contract with the owner of the property.*
- Step 3:** *An Affidavit of Claim of Lien must be recorded in the real property records of the county where the property is located by every claimant, (original contractor and subcontractor) on every non residential project not later than the 15th day of the fourth calendar month of the “accrual of indebtedness”.*
- Step 4:** *A copy of the lien affidavit must be sent to the owner within five (5) business days after the affidavit is filed. Every subcontractor must also send it within the time limit to the original contractor.*

Lien Notice Affidavit Timeline

MONTH IN WHICH UNPAID WORK IS PERFORMED	DEADLINE FOR SENDING NOTICES OF UNPAID BALANCE TO OWNER/ ORIGINAL CONTRACTOR	DEADLINE FOR FILING LIEN AFFIDAVIT
January	April 15	May 15
February	May 15	June 15
March	June 15	July 15
April	July 15	August 15
May	August 15	September 15
June	September 15	October 15
July	October 15	November 15
August	November 15	December 15
September	December 15	January 15
October	January 15	February 15
November	February 15	March 15
December	March 15	April 15

Residential Construction Lien

How To File A Mechanics Lien For Residential Construction

- Step 1:** A [Notice of Unpaid Balance](#) should be sent to the owner of the property by every subcontractor on a residential property (with a copy to the original contractor) for any month in which any unpaid balance remains, except contractual retainage for which a timely [Notice of Agreed Retainage](#) has been sent to the owner.
- Step 2:** The [Notice of Unpaid Balance](#) is required to be sent *no later than the 15th day of the third calendar month following the month in which the unpaid work was performed or material delivered*. The notice is not required if you have a written contract with the owner of the property.
- Step 3:** An [Affidavit of Claim of Lien](#) must be recorded in the real property records of the county where the property is located by every claimant, (original contractor and subcontractor) on every non residential project *not later than the 15th day of the fourth calendar month of the "accrual of indebtedness"*.
- Step 4:** A copy of the lien affidavit must be sent to the owner within five (5) business days after the affidavit is filed. Every subcontractor must also send it within the time limit to the original contractor.

Lien Notice Affidavit Timeline

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October	January 15	February 15
November	February 15	March 15
December	March 15	April 15

Mechanics and Materialman's Lien Worksheet

MECHANICS AND MATERIALMAN'S LIEN WORKSHEET

1. Name and Address of Project:

2. Name and Address of Owner:

3. Name and Address of person or company with whom you have a contract.

4. Written Contract/Work Order (always get or have a copy on hand)

Identify work you will be performing or have performed

When will the work begin and end?

How will changes take place (Change order)? (The Answer should be in Writing)

5. Make sure you have a legal description of the property on which the project is built along with a correct street address identifying correct location.

6. List and attach copies of INVOICES reflecting amounts outstanding and the dates that the work was performed for which your company has not been paid.

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