

Chapter 12 Notice of Lien Filing

38-12-101 Definitions.

For purposes of this chapter:

- (1) "Lien" means:
 - (a) failure to pay money owed for property, services, or a notice of interest, a judgment, or any other encumbrance on the title, that becomes a charge against or interest in:
 - (i) real property, a building, a structure, or an improvement including any franchise, privilege, appurtenance, machinery, or fixture pertaining to or used in connection with any real property, building, structure, or improvement;
 - (ii) personal property; or
 - (iii) a judgment, settlement, or compromise; or
 - (b) a tax as provided in Section 59-1-1413, 59-5-108, 59-5-208, 59-11-110, or 59-12-112.
- (2) "Lien" does not mean a charge against or interest in, for failure to pay money owed for property, services, or a judgment, any:
 - (a) bank account;
 - (b) pension; or
 - (c) garnishment.

Amended by Chapter 212, 2009 General Session

38-12-102 Notice requirements for lien filings -- Exceptions.

- (1) A lien claimant or the lien claimant's agent shall send by certified mail a written copy of a notice of lien to the last-known address of the person against whom the notice of lien is filed no later than 30 days after the day on which the notice of lien is submitted for recording with:
 - (a) a county recorder;
 - (b) a county clerk;
 - (c) a clerk of the court; or
 - (d) in the case of a lien on an aircraft under Section 38-13-201, the Federal Aviation Administration.
- (2)
 - (a) A notice of lien submitted for recording shall contain the following information:
 - (i) the name and address of the person against whom the lien is filed;
 - (ii) a statement that the property owned by the person against whom the lien is filed is subject to a lien;
 - (iii)
 - (A) the amount of the judgment, settlement, or compromise, if the lien is based on a charge against or interest in a judgment, settlement, or compromise;
 - (B) the amount of state taxes owed, if the lien is based on unpaid state taxes;
 - (C) the total amount of the unpaid assessment that is subject to the lien, including any fees, charges, or costs, if the lien is based on an unpaid assessment under Title 57, Chapter 8, Condominium Ownership Act, or Title 57, Chapter 8a, Community Association Act; or
 - (D) the amount of the unpaid fine, if the lien is based on an unpaid fine under Title 57, Chapter 8, Condominium Ownership Act, or Title 57, Chapter 8a, Community Association Act; and
 - (iv)

- (A) the name, address, and phone number of the lien claimant; or
 - (B) if the lien claimant has a representative for purposes of the lien, the name of the lien claimant and the name, address, and phone number of the lien claimant's representative.
- (b) When a lien claimant mails a copy of a notice of lien to the person against whom the notice of lien is filed, in accordance with Subsection (1), the notice of lien shall contain:
- (i) the requirements described in Subsection (2)(a);
 - (ii) the date the notice of lien was submitted for recording; and
 - (iii) the article number on the certified mail receipt.
- (3) The notice requirements of Subsections (1) and (2) do not apply to:
- (a) a preconstruction or construction lien as provided in Title 38, Chapter 1a, Preconstruction and Construction Liens;
 - (b) a lessors' lien as provided in Title 38, Chapter 3, Lessors' Liens;
 - (c) a federal tax lien as provided in Title 38, Chapter 6, Federal Tax Liens;
 - (d) a hospital lien as provided in Title 38, Chapter 7, Hospital Lien Law;
 - (e) a self-service storage facilities lien as provided in Title 38, Chapter 8, Self-Service Storage Facilities;
 - (f) an oil, gas, or mining lien as provided in Title 38, Chapter 10, Oil, Gas, and Mining Liens;
 - (g) a claim against the Residence Lien Recovery Fund as provided in Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;
 - (h) a trust deed;
 - (i) a mortgage;
 - (j) any interests subject to a security agreement as defined in Section 70A-9a-102;
 - (k) any other liens subject to the same or stricter notice requirements than those imposed by Subsections (1) and (2); or
 - (l) a court judgment or abstract of a court judgment presented for recording in the office of a county recorder.

Amended by Chapter 129, 2014 General Session

38-12-103 Failure to notify -- Effect -- Penalty.

- (1)
- (a) A person who fails to meet the notice requirements of Subsections 38-12-102(1) and (2) is precluded from receiving an award of costs and attorneys' fees from the person against whom a notice of lien has been filed in an action to enforce the lien if costs and attorneys' fees are authorized by contract or statute.
 - (b) Subsection (1)(a) does not create a right to costs and attorneys' fees.
- (2) In addition to the penalties provided in Subsection (1)(a), a lien claimant who, within 20 days from the date of receiving notice of noncompliance with the notice requirements of Subsection 38-12-102(1) or (2), willfully refuses to release the notice of lien or record the lien in compliance with Section 38-12-102 is liable to the person against whom the notice of lien was filed for \$1,000 or for treble damages, whichever is greater.
- (3) Failure to meet the notice requirements of Subsections 38-12-102(1) and (2) does not:
- (a) invalidate any lien arising at common law or in equity or by any statute of this state; or
 - (b) affect the rules of priority provided in Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions.

Amended by Chapter 252, 2000 General Session

38-12-104 Independent grounds for imposing a lien not created.

The provisions of this chapter do not create independent grounds for imposing a lien.

Enacted by Chapter 323, 1995 General Session