

**38-1a-402 Notice of preconstruction lien -- Requirements.**

- (1) Within 90 days after completing a preconstruction service for which a claimant is not paid in full, a claimant who desires to claim a preconstruction lien shall submit for recording with each applicable county recorder a notice of preconstruction lien.
- (2) A claimant who fails to submit a notice of preconstruction lien as provided in Subsection (1) may not claim a preconstruction lien.
- (3)
  - (a) A notice of preconstruction service lien shall include:
    - (i) the claimant's name, mailing address, and telephone number;
    - (ii) a statement that the claimant claims a preconstruction lien;
    - (iii) the date the claimant's notice of preconstruction service was filed;
    - (iv) the name of the person that employed the claimant;
    - (v) a general description of the preconstruction service provided by the claimant;
    - (vi) the date that the claimant last provided preconstruction service;
    - (vii) the name, if known, of the reputed owner or, if not known, the name of the record owner;
    - (viii) a description of the project property sufficient for identification;
    - (ix) the principal amount, excluding interest, costs, and attorney fees, claimed by the claimant;
    - (x) the claimant's signature or the signature of the claimant's authorized agent;
    - (xi) an acknowledgment or certificate as required under Title 57, Chapter 3, Recording of Documents; and
    - (xii) if the lien is against an owner-occupied residence, as defined in Section 38-11-102, a statement meeting the requirements that the division has established by rule, describing the steps the owner of the owner-occupied residence may take to require a claimant to remove the lien as provided in Section 38-11-107.
  - (b)
    - (i) A claimant who is an original contractor or a supervising subcontractor may include in a notice of preconstruction lien the name, address, and telephone number of each subcontractor who is under contract with the claimant to provide preconstruction service that the claimant is under contract to provide.
    - (ii) The inclusion of a subcontractor in a notice of preconstruction lien filed by another claimant is not a substitute for the subcontractor's own submission of a notice of preconstruction lien.
- (4)
  - (a) A county recorder:
    - (i) shall record each notice of preconstruction lien in an index maintained for that purpose; and
    - (ii) need not verify that a valid notice of preconstruction service is filed with respect to the claimed preconstruction lien.
  - (b) All persons are considered to have notice of a notice of preconstruction lien from the time it is recorded.
- (5)
  - (a) Within 30 days after a claimant's notice of preconstruction lien is recorded, the claimant shall send by certified mail a copy of the notice to the reputed or record owner.
  - (b) If the record owner's address is not readily available to the claimant, the claimant may mail a copy of the notice to the owner's last-known address as it appears on the last completed assessment roll of the county in which the property is located.
  - (c) A claimant's failure to mail a copy of the notice as required in this Subsection (5) precludes the claimant from being awarded costs and attorney fees against the reputed or record owner in an action to enforce the lien.

(6) Nothing in this section may be construed to prohibit a claimant from recording a notice of preconstruction lien before completing the preconstruction service the claimant contracted to provide.

Amended by Chapter 464, 2013 General Session