

LIEN CLAIM AGAINST COMMERCIAL PROPERTY¹ (PRIVATE)

1. Provide Property Owner and Prime Contractor with a Notice to Owner (also known as a Pre-lien Notice)

WHO: Must be provided by a claimant to the property owner and prime contractor if such claimant is furnishing labor, professional services, materials or equipment for the improvement of real property in certain situations:

Is the claimant:

- A prime contractor, or a claimant otherwise contracting directly with the owner or owner's agent, or
- A laborer whose lien is based solely on performing labor, or
- A 1st tier *subcontractor*² (a contractor contracting directly with the prime contractor).

YES
(to any one of the above)

NO Notice to Owner
Required

NO
(to all of the above)

Notice to Owner
Required

WHEN: The Notice to Owner can be given at any time, but only protects the right to claim a lien for services, materials, or equipment provided up to **60 days** before the Notice to Owner is delivered. In other words, the Notice to Owner should be provided to no later than **60 days** after you have first started work on the project by furnishing services, materials or equipment.

WHAT: Provide a Notice to Owner.

HOW: The Notice to Owner must be provided to the property owner and prime contractor by either (1) mailing the Notice to Owner via certified or registered mail, or (2) delivering or serving the Notice to Owner personally to the owner and prime contractor and obtaining evidence of such delivery. Evidence of delivery may be shown by a receipt or acknowledgment signed by the owner and prime contractor or completing an affidavit of service.

¹ If the property is a new construction of a single-family residence, or is a remodel of a residence, it is considered "residential property" and different rules apply. This chart does not cover residential property.

² If non-subcontractors, such as a supplier, contracts directly with the prime contractor it appears they would not be considered as a 1st tier subcontractor.

2. Lien Recording

WHO: A claimant that has provided labor, professional services, materials, or equipment for the improvement of real property.

WHEN: The Lien must be recorded no later than **90 days** after the claimant has ceased to provide labor, professional services, materials or equipment. In other words, the failure to record the Lien within **90 days** from the date that services/work ceased bars the claimant from making a Lien claim.

WHAT: Record a Lien.

HOW: (1) Record the Lien with the auditor/recorder's office of the county where the real property is located, and (2) give a copy of the Lien to the property owner within 14 days of recording the Lien by either mailing the Lien via certified mail or by personal service. Failure to give a copy of the Lien to the property owner within 14 days as set forth above precludes the Lien claimant from recovering its attorneys' fees and costs it may incur in enforcing the Lien.

3. Lien Foreclosure

A lien claimant has **8 months** after recording its lien to commence a lawsuit to foreclose on its lien; otherwise the lien is void. A lien claimant should contact Andrew Chisholm at Montgomery Purdue PLLC, achisholm@montgomerypurdue.com (206) 695-1170, no later than **6 months** after recording its lien to request he commence a lien foreclosure lawsuit.