

## LIEN CLAIM AGAINST RESIDENTIAL PROPERTY<sup>1</sup>

### 1. Provide Property Owner with Notice to Customer [Prime Contractors Only]

WHO: Must be provided to the property owner by a prime contractor (i.e. a contractor that contracts directly with the owner) that agrees to perform any contracting project is for the repair, alteration or construction of four or fewer *residential* units when the bid or contract price totals \$1,000 or more. RCW 18.27.114(5) excepts “contractors contracting with other contractors.

WHEN: Prior to starting work on the project.

WHAT: Notice to Customer.

HOW: The Notice to Customer must be signed by the customer and retained in file for a minimum of 3 years. The easiest way to accomplish this is make the foregoing documents a part of the signed contract with the owner. Alternatively, you can separately deliver or mail to the owner the foregoing documents and require their signature before commencing work.

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

WHO: Must be provided by a claimant to the property owner/occupant and prime contractor if such person/entity is furnishing professional services, materials or equipment for the improvement of real property as follows:<sup>2</sup>

Construction of a Single-Family Residence

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 1<sup>st</sup> tier *subcontractor*<sup>2</sup> (a contractor contracting directly with the prime contractor).

Existing Owner-Occupied Single-Family Residence

Is the claimant:

- A prime contractor, or a claimant otherwise (contracting directly with the owner or owner’s agent)?

YES  
(to any one of the above)

**NO** Notice to Owner  
Required

NO  
(to all of the above)

Notice to Owner  
Required

YES

**NO** Notice to Owner  
Required

NO

Notice to Owner  
Required

<sup>1</sup> If the residential property consists of multiple units, each unit should be treated separately. RCW 60.04.101 and 60.04.131.

<sup>2</sup> 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.

November 24, 2021  
Page 2

WHEN: (1) For Existing Single-Family Residences - the Notice to Owner can be given at any time, but the lien for services, materials, or equipment can only be satisfied from funds not yet paid to the prime contractor at the time the owner/occupier receives the Notice (actual receipt or 3 business days from mailing). Therefore, a Notice to Owner should be delivered as soon as possible.

(2) For New Construction - 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 **10 days** before the Notice to Owner is delivered. In other words, the Notice to Owner should be provided to no later than **10 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 owner/occupant 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/occupant and prime contractor and obtaining evidence of such delivery. Evidence of delivery may be shown by a receipt or acknowledgment signed by the owner/occupant and prime contractor or completing an affidavit of service.

### 3. 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.

### 4. 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](mailto:achisholm@montgomerypurdue.com) (206) 695-1170, no later than **6 months** after recording its lien to request he commence a lien foreclosure lawsuit.