

Utah Construction Lien Law

The basics of Utah construction lien law

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Utah Construction Registry

<https://secure.utah.gov/scr/>

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“Connecting owners and their money with the people working on their projects. Providing a comprehensive list of who is working on each construction project in Utah.”

Create an account to access records or file notices. You will be charged an initial fee to sign up and an annual fee thereafter. Minimal fees are charged each time you record notices in the registry.

Utah Construction Registry

Utah Code §§ 38-1a-201 - 38-1a-211; 38-1a-501

Your Utah construction lien claim and your Utah construction bond claim live and die at the construction registry. If you don't file the proper notices in the registry your can't enforce a lien against the property and you can't pursue any payment bonds. It is imperative that you file your notices in the Utah Construction Registry.

Utah Construction Registry

Notices that can be filed in the State Construction Registry:

- Notice of Commencement
- Notice of Construction Loan
- Notice of Preconstruction Services

Utah Construction Registry

Notices that can be filed in the State Construction Registry (cont.):

- Notice of Intent to Finance
- **Preliminary Notice**
- Intent to Complete
- Remaining to Complete

Utah Construction Registry

Notices that can be filed in the State Construction Registry (cont.):

- Notice of Completion
- Notice of Loan Default

Preliminary Notice

If you want lien rights you must file a preliminary notice. General contractors, subcontractors, materialmen and suppliers typically file a Preliminary Notice. .

Preliminary Notice

Get the following information from the general contractor, subcontractor, or owner. Their Preliminary Notice is a good source.

1. Owner's name
2. Original contractor's name
3. County where the property is located
4. The tax parcel ID number
5. The street address, including the city and zip code

Preliminary Notice

The Utah Construction Registry has a link to help you find that tax-parcel number.

Preliminary Notice

Filing deadlines – Utah Code § 38-1a-501

No later than 20 days after you start: “A person who desires to claim a construction lien on real property shall file a preliminary notice with the registry no later than 20 days after the day on which the person commences providing construction work on the real property.”

Preliminary Notice

Filing deadlines – Utah Code § 38-1a-501

Five day penalty: A person who files a preliminary notice late “may not claim a construction lien for construction work the person provides to the construction project before the date that is five days after the preliminary notice is filed.”

Preliminary Notice

Filing deadlines – Utah Code § 38-1a-501

“A person who fails to file a preliminary notice as required in this section may not claim a construction lien.”

If you don't file a Preliminary Notice you can't claim a construction lien.

Preliminary Notice

Failing to file a Preliminary Notice prohibits you from filing a lien. You will still have breach of contract claim against your customer, but you won't have the customer's property as security for the debt owed you.

Preliminary Notice

Title companies in Utah typically check the Utah Construction Registry to see if a Preliminary Notice has been filed against property. Often they will not close a permanent loan, refinance, or other mortgage funding if there is an unresolved Preliminary Notice in the registry, even if no Notice of Lien has been recorded. This is because a Notice of Lien can be recorded up to 180 days after completion of work.

Utah Code – Construction Liens

Utah Code §38-1a-101 *et seq.* Preconstruction and Construction liens

Utah's Legislature meets annually and tweaks the construction lien provisions almost every legislative session. Even if you know the process, you should check for changes. Your best current reference is the online version of the Utah Code

Notice of Construction Lien

Filing deadlines Utah Code § 38-1a-502. Notice of construction lien

180-day deadline “A person who desires to claim a construction lien shall submit for recording in the office of each applicable county recorder a notice of construction lien no later than . . . : 180 days after the date on which final completion of the original contract occurs, if no notice of completion is filed under Section 38-1a-507; or”

90-day deadline: “90 days after the date on which a notice of completion is filed under Section 38-1a-507, but not later than 180 days after the date on which final completion of the original contract occurs.

Notice of Construction Lien

Required information Utah Code § 38-1a-502. Notice of construction lien

A notice of construction lien shall contain:

- (a) the name of the reputed owner if known or, if not known, the name of the record owner;
- (b) the name of the person by whom the claimant was employed or to whom the claimant provided construction work;
- (c) the time when the claimant first and last provided construction work;

Notice of Construction Lien

Required information Utah Code § 38-1a-502. Notice of construction lien

A notice of construction lien shall contain;

- (d) a legal description of the project property;
- (e) the name, current address, and current phone number of the claimant;
- (f) the amount claimed under the construction lien;

Notice of Construction Lien

Required information Utah Code § 38-1a-502. Notice of construction lien

A notice of construction lien shall contain:

- (g) the signature of the claimant or the claimant's authorized agent;
- (h) a notarized acknowledgment; and
- (i) if the construction lien is on an owner-occupied residence, a statement describing what steps an owner, may take to require a lien claimant to remove the lien in accordance with Section 38-11-107.

Notice of Construction Lien

Send Notice to the Owner Utah Code § 38-1a-502.

“Within 30 days after filing a notice of construction lien, the claimant shall deliver or mail by certified mail a copy of the notice to the reputed owner or the record owner.”

“Failure to deliver or mail the notice of lien to the reputed owner or record owner precludes the claimant from an award of costs and attorney fees against the reputed owner or record owner in an action to enforce the construction lien.”

Notice of Construction Lien

Utah Code § 38-1a-503

“A construction lien relates back to, and takes effect as of, the time of the first preliminary notice filing.”

“ a construction lien has priority over:

- (i) any lien, mortgage, or other encumbrance that attaches after the first preliminary notice filing; and
- (ii) any lien, mortgage, or other encumbrance of which the claimant had no notice and which was unrecorded at the time of the first preliminary notice filing.”

Enforcement of Construction Lien

Utah Code § 38-1a-701

180-day deadline “In order to enforce a construction lien, a claimant shall file an action to enforce the lien within 180 days after the day on which the claimant files a notice of construction lien”

“If an owner files for protection under the bankruptcy laws of the United States before the expiration of the 180-day period under Subsection (2)(a), within 90 days after the automatic stay under the bankruptcy proceeding is lifted or expires.”

Enforcement of Construction Lien

Utah Code § 38-1a-707

Hire an attorney. In Utah, corporations, limited liability companies, and other business entities must be represented by counsel in court.

Typically, your lawsuit will have a breach of contract claim against the general contractor or owner, and either a bond claim, or a claim to foreclose the construction lien.

“In any action brought to enforce any lien under this chapter the successful party shall be entitled to recover reasonable attorney fees.”

Notice of Construction Lien

Utah Code § 38-1a-701

“If a claimant files an action to enforce a construction lien involving a residence, the claimant shall include with the service of the complaint on the owner of the residence”