

CONTRACTOR ALERT

Contractor Alert is a joint publication by this Contractor and the Law Offices of Richard M. Sissman, Esquire and Fracassi Mahdavi Sissman & Rand LLP located at 1485 Chain Bridge Road, Suite 105, McLean, VA 22101. This newsletter is designed to give general information on the matters covered. Space limitation prevents exhaustive treatment or analysis of this topic. This newsletter is not intended to substitute for advice on specific legal problems. If you are interested in receiving a complimentary issue or to be placed on our mailing list, contact Richard M. Sissman, Esquire. We welcome and appreciate your suggestions for future article topics.

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THE REVISED DISTRICT OF COLUMBIA PROCEDURE FOR FILING MECHANIC'S LIENS

Recently, the District of Columbia has modified the procedure that one is to use in order to perfect a mechanic's lien with the Recorder of Deeds at the District of Columbia. Set forth below is the new mechanic's lien law and the procedure required that will permit you to file and perfect your Notice of Lien with the Recorder of Deeds.

New Mechanic's Lien Law

1. Every building erected, improved, added to, or repaired at the **direction of the owner or the owner's's authorized agent.**

2. A contractor desiring to enforce the lien shall record in the land records a notice of intent that identifies the property subject to the lien and states the amount due or become due to the contractor. The notice of intent shall be recorded within **90 days after the earlier of the completion or termination of the project.**

3. The notice of intent to hold a lien shall include:

A. Name and address of the contractor **or the contractor's registered agent.**

B. Name and address of the property owner **or the owner's registered agent;**

C. The description of the work done, including the dates that the work was commenced and completed. **The description of the material furnished including the dates that material was first and last delivered.**

D. Name of the party against whose interest a lien is claimed and the amount claimed, less any credit for payments received up to and including the date of the notice of intent.

E. A legal description and, to the extent available, a street address of the real property

Additional information required:

If the contractor is an entity organized under the laws of the District or is doing business in the District

A. A copy of the contractor's current license to do business in the District issued by DCRA.

B. A certificate of good standing issued by DCRA within **180 days** prior to the date of the filing of the notice of intent.

C. Omitted OTR requirement.

D. If the project is provided under a home improvement contract, a copy on the home improvement contract.

If the contractor is an individual or an entity organized under laws other than those of the District and is not doing business in the District but is required to be licensed by a governmental entity

A. A copy of the contractor's current license to do business issued by the government of the other jurisdiction and

B. A certificate evidencing the contractor's good standing in its place of business or state of incorporation issued by the other jurisdiction.

A sworn, notarized statement affirming under penalty of perjury and upon personal knowledge that the contents of the notice are true and correct to the best of the contractor's information and belief and the contractor has the right to recover the amount claimed.

If a notice of intent is executed by an authorized representative or counsel of the contractor, he or she shall attach evidence of his or her authority to execute the notice of intent on behalf of the contractor and shall affirm that the notice of intent is true and correct to the best of the affiant's knowledge and belief.

If the owner, in good faith, has paid the original contractor in full for the project of the original contract, the parties employed by original contractor shall not be entitled to a lien on the owner's real property.

4. When suit to be commenced

A. Any person with a lien and who has recorded a valid notice of intent shall only enforce the lien by filing suit under section 1246 to enforce the lien at anytime within 180 days after the date that the notice of intent is recorded in the land records, and

B. Recording within 10 days of filing suit, a notice of pendency of action in accordance with section 556a(b) in the land records.

Failure to file suit within 180-day period or to file timely a notice of pendency of action shall terminate the lien.

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