

**CONSTRUCTION LIEN LAW
{ WASHINGTON**

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- ↳ **Statutory remedy**
 - ↳ RCW 60.04
 - ↳ Other applicable law
- ↳ **Creating, Perfecting, Enforcing Liens**
- ↳ **Liberal construction to provide security, RCW 60.04.900 v. Strict construction**
- ↳ **Payment implications | \$**

Construction Lien: Introduction

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↳ *"any person furnishing labor, professional services, materials, or equipment for the improvement of real property shall have a lien upon the improvement for the contract price of labor, professional services, materials, or equipment furnished at the instance of the owner, or the agent or construction agent of the owner."*

RCW 60.04.021

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& Providing:
 & Labor
 & Professional services
 & Materials
 & Equipment
 & For the improvement of real property
 & Furnished at instance of owner or owner's construction agent

Parties that May Be Eligible to a Lien

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& Private property | not public works
 & "upon the improvement"
 & The land | RCW 60.04.051
 & Other issues:
 & Condominiums
 & Tenants

Scope of Lien

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Notice to Customer | Disclosure Statement

{ RCW 18.27.114

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☒ Contractor, contracting w/ owner directly must provide disclosure statement before commencing work if repair, alteration, or construction is:
 ☒ of 4 or fewer residential units & bid or contract price is \$1,000 or more; or
 ☒ of commercial building and bid or contract price is \$1,000 or more but less than \$60,000
 ☒ **Form | Notice to Customer**
 ☒ Customer signature
 ☒ Before starting work
 ☒ Twelve-point and bold type where appropriate
 ☒ Retain signed copy for 3 years min.

**Notice to Customer |
RCW 18.27.114**

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Notice to Owner
 { RCW 60.04.031

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☒ With some exception, "every person furnishing professional services, materials, or equipment for the improvement of real property shall give the owner or reputed owner notice in writing of the right to claim a lien." RCW 60.04.031(1).

Notice to Owner

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☒ **May Not Be Required If:**
 ☒ **Contract directly w/ owner or owner's common law agent;**
 ☒ **Laborers where lien is only for labor;**
 ☒ **Subcontractors contracting directly with prime contractor | First tier sub |**
 ☒ **Except:** persons furnishing professional services, materials, or equipment in connection with repair, alteration, or remodel of existing owner-occupied single-family residence/garage who do not contract directly with owner/agent shall give notice

Notice to Owner | By Whom | RCW 60.04.031(2), (3)

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☒ **Certified or registered mail; or**
 ☒ **Personal w/ evidence of delivery**
 ☒ Receipt signed by owner or reputed owner or affidavit of service
 ☒ **To the owner or reputed owner**
 ☒ ***"this notice shall also be given to the prime contractor . . . unless the potential lien claimant has contracted directly with the prime contractor."***
 ☒ RCW 60.04.031(1)

Notice to Owner | Method & To Whom

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☒ **Anytime, BUT:**
 ☒ Only protects lien rights for professional services, materials, or equipment supplied after the date that is **60 days** before notice effective date. RCW 60.04.031(1).
 ☒ **New construction of single-family residence:** only protects lien rights for professional services, materials, or equipment supplied after the date that is **10 days** before notice effective date. RCW 60.04.031(1).

Notice to Owner | Timing

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☒ “Substantially” in statutory form
 ☞ RCW 60.04.031

☒ In writing

☒ “ten-point type”

Notice to Owner | Content

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☒ **Every person claiming a lien:**

- ☞ Shall file for recording
- ☞ In the county where the subject property is located
- ☞ A notice of claim of lien
- ☞ Not later than **90 days** after last date of lien claimant’s work

Recording Claim of Lien | RCW 60.04.091

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☒ **Statutory Form**

- ☞ Name, phone number and address of claimant
- ☞ First and last date of labor, services, materials, or equipment furnished
- ☞ Name of person indebted to claimant
- ☞ Description of real property subject to lien
- ☞ Name of owner/reputed owner (if not known, state unknown)
- ☞ Principal amount
- ☞ Signed by claimant or someone authorized to act for claimant, subject to penalty of perjury, acknowledged

Claim of Lien | Content | RCW 60.04.091

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☒ To owner or reputed owner
 ☒ By certified or registered mail or personal service
 ☒ Within 14 days of recording.
 ☒ Preserve or lose right to attorney fees under RCW 60.04.181

Claim of Lien | Mail or Serve | RCW 60.04.091

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Foreclosure Action to Enforce Lien Claim | RCW 60.04.141

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☒ *“alleging and proving that he or she was a duly registered contractor and held a current and valid certificate of registration at the time he or she contracted for the performance of such work or entered into such contract”*
 ☒ Prerequisite to suit

Registration Required | RCW 18.27.080

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- ⌘ **Time to foreclosure action**
 - ⌘ **Eight calendar months** after the claim of lien has been recorded
 - ⌘ **Action filed in superior court in county where property is located**
 - ⌘ **Service made upon property owner within 90 days of filing action**
- ⌘ Lien lost absent timely action to enforce
- ⌘ **Must be filed in "superior court" to comply – arbitration does not satisfy statute**
- ⌘ Parties to foreclosure action
- ⌘ Attorney's fees "may" be allowed | RCW 60.04.181

**Foreclosure Action |
RCW 60.04.141**

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- ⌘ **Among construction lien claimants |
RCW 60.04.181**
 - ⌘ Statutory priority based on nature of lien claimant:
 - ⌘ Labor
 - ⌘ Contributions owed to employee benefit plans
 - ⌘ Materials, supplies or equipment
 - ⌘ Subcontractors (labor & material)
 - ⌘ Prime contractors or professional services
- ⌘ **Deficiency**
- ⌘ **Lien claimants v. Other Liens
RCW 60.04.061**
 - ⌘ Attaches when claimant first commences labor or services, or first delivery of material or equipment
 - ⌘ Priority over prior unrecorded encumbrance or encumbrance attaching after claimant first commenced labor or services or first delivered of material or equipment

Priority

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- ⌘ **May record a bond to release lien from real property**
- ⌘ **Either before or after commencement of enforcement action**
- ⌘ **In recorder or auditor's office where claim of lien was recorded**
- ⌘ **Must comply with RCW 60.04.141 – enforcement action within "eight calendar months after the claim of lien has been recorded"**

**Bond in Lieu |
RCW 60.04.161**

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Additional Issues & Questions

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THANK YOU

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