

## Liens

1. If the contractor furnished services directly to the owner, at the owner's request, he does not need to give notice of right to claim a lien. § 71-3-531(1)(a), MCA.
2. If the subcontractor worked for a contractor then they have to file a notice of right to claim a lien. § 71-3-531(2), MCA.
  - A. The notice may not be given later than 20 days after the date on which the services or material are first furnished to the contracting owner. § 71-3-531(3), MCA.
    1. If notice is not given within 20 days, the lien is enforceable only for the services or material furnished within the 20-day period before the date on which notice is given. § 71-3-531(4), MCA.
  - B. The notice of the right to claim a lien **MUST** be sent to the contracting owner be certified mail or delivered personal. § 71-3-531(5), MCA.
    1. Notice be certified mail is effective from the date it is mailed to the owner. § 71-3-531(5), MCA.
    2. If delivered, a written receipt of acknowledgement must be obtained from the owner. § 71-3-531(5), MCA.
  - C. The copy of the notice **MUST** also be filed with the clerk and recorder of the county in which the improved real estate is located. § 71-3-531(6)(a), MCA.
    1. Must be filed no later than five (5) business days after date on which notice is given to owner. § 71-3-531(6)(a), MCA.
3. The contents of the notice of right to claim a lien are set forth in § 71-3-532:
  - A. Must be in writing and state that it's a notice of a right to claim a lien against real estate for services or materials furnished in connection with improvement of the real estate; § 71-3-532(1), MCA
  - B. Must contain a description sufficient to identify the real estate against which the lien may be claimed; § 71-3-532(2), MCA
  - C. Must also contain:
    1. Date of mailing; § 71-3-532(3)(a), MCA
    2. Owner's name; § 71-3-532(3)(b), MCA
    3. Owner's address; § 71-3-532(3)(c), MCA

4. Name of person filing notice; § 71-3-532(3)(d), MCA
  5. Address of person filing notice; § 71-3-532(3)(e), MCA
  6. A description sufficient to identify the property that is being improved; and § 71-3-532(3)(f), MCA
  7. The notice provided in the Notice Form. § 71-3-532(3)(g), MCA
4. Only then can an actual lien be filed.
  5. The lien MUST be filed no later than 90 days after:
    - A. The person's final furnishing of services or materials; or § 71-3-535(1)(a), MCA
    - B. The owner files a notice of completion pursuant to 71-3-533. § 71-3-532(1)(b), MCA
  6. Contents of the Lien are listed in § 71-3-535, MCA and are as follows:
    - A. Name and address of the person claiming the lien; (3)(a)
    - B. A description of the real property against which the lien is claimed sufficient to identify it; (3)(b)
    - C. The name of the contracting owner; (3)(c)
    - D. The name and address of the party with whom the person claiming the lien contracted to furnish services or materials; (3)(d)
    - E. A description of the services or material provided; (3)(e)
    - F. The amount unpaid for services or material, or if no amount is fixed, a good faith estimate of the amount unpaid, designated as an estimate; (3)(f)
    - G. The date on which:
      1. The services or material were first furnished; (3)(g)(i)
      2. The services or materials were last furnished; and (3)(g)(ii)
    - H. A declaration that a notice of a right to claim a lien was given to the contracting owner or an explanation of why the notice was not required. (3)(h)
    - I. Required Attestation(s) – See Attestation Forms
  7. The lien must be filed with the county clerk. § 71-3-534, MCA

- A. The clerk may not file a lien unless it is accompanied by a certification by the lien claimant or the claimant's agent that a copy of the lien has been served upon each owner of record of the property named in the lien. § 71-3-534(2), MCA
  - B. Service must be made by personal service on each owner or by mailing a copy of the lien by certified mail with return receipt requested to each owner's last-known address. § 71-3-534(2), MCA
  - C. The certification must state that service was made by delivery of certified mail. § 71-3-534(2), MCA
8. Once the indebtedness is discharged by payment, it is the duty of the creditor to acknowledge satisfaction thereof; and if any creditor fails to acknowledge satisfaction, he is liable to any person injured by such failure to the amount of such injury and the costs of action. § 71-3-537, MCA