

Mechanic's Lien Workflow Checklist (Contractor Rights) (NC)

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A Checklist outlining the steps for creating, perfecting, enforcing, and discharging a mechanic's lien for work performed or material furnished by a contractor to improve privately owned commercial and residential real property in North Carolina. This Checklist outlines pre-lien notice requirements for owners and contractors and also includes the requirements for filing a lien claim and the steps to perfect and enforce a mechanic's lien after filing the lien claim.

BEFORE STARTING WORK TO 15 DAYS AFTER STARTING WORK

DESIGNATE A LIEN AGENT (OWNER)

- Subject to limited exceptions, designate a lien agent from the list of registered lien agents on the North Carolina Lien Agent System before contracting with any person to improve real property.
- Notify the lien agent in writing that the owner has designated it as the owner's agent using one of the methods allowed by statute (N.C.G.S. § 44A-11.2(f)).

For more information relating to designating a lien agent, including exceptions to the notice requirement and resignation, revocation, and removal of a lien agent, see Practice Note, Mechanic's Liens in Practice (Contractor Rights) (NC): Designation of Lien Agent ([W-015-8524](#)).

POST LIEN AGENT'S CONTACT INFORMATION (OWNER)

- Review the building permit to confirm that the lien agent's contact information is included.
- Post the building permit containing the lien agent's contact information at the project site at all times until construction is complete.

- Post a sign disclosing the lien agent's contact information at the site if:
 - a building permit is not issued for the project; or
 - the lien agent's contact information is not included in the building permit.

IDENTIFY THE LIEN AGENT (CONTRACTOR)

- Review the building permit or other sign posted at the site to confirm the lien agent's contact information.
- If the lien agent's contact information is not posted at the project site, request the lien agent's contact information from the owner.
- Provide the lien agent's contact information to any lower-tier subcontractor or supplier within three business days after contracting with the lower-tier party by:
 - serving written notice on the party using one of the methods allowed by statute (N.C.G.S. § 44A-11.2(f)); or
 - including the lien agent's contact information in the written subcontract or purchase order.

For more information relating to identification of the owner's designated lien agent, see Practice Note, Mechanic's Liens in Practice (Contractor Rights) (NC): Identification of Lien Agent ([W-015-8524](#)).

SERVE A NOTICE TO LIEN AGENT (CONTRACTOR)

- Prepare a notice to lien agent using a form substantially similar to the statutory form prescribed by North Carolina law (N.C.G.S. § 44A-11.2(i)).
- At any time, but within 15 days after first furnishing labor or materials to the project site, serve the notice to lien agent on the owner's designated lien agent using one of the methods allowed by statute (N.C.G.S. § 44A-11.2(f)). Counsel should serve the notice electronically by filing the notice on the North Carolina Lien Agent System.

For more information on serving a notice to lien agent, including the form of notice and exceptions to the notice requirement, see Practice Note, Mechanic's Liens in Practice (Contractor Rights) (NC): Notice to Lien Agent ([W-015-8524](#)).

ZERO TO 120 DAYS AFTER COMPLETION OF WORK**DETERMINE EXTENT OF INTEREST HELD BY CONTRACTING PARTY**

- Review the construction contract to identify:
 - the contracting party; and
 - the amount of unpaid funds owed to the lien claimant.
- Order a title report to determine the extent of the interest held by the contracting party.
- Confirm that the contracting party qualifies as an owner of the real property (N.C.G.S. § 44A-7(6)).

For more information on limitations related to liens on real property, see Practice Note, Mechanic's Liens in Practice (Contractor Rights) (NC): Limitations on Liens on Real Property ([W-015-8524](#)).

SERVE AND FILE A CLAIM OF LIEN ON REAL PROPERTY

- Prepare a claim of lien on real property using a form substantially similar to the statutory form prescribed by North Carolina law (N.C.G.S. § 44A-12(c)).
- Serve the claim of lien on the property owner by personal delivery or any method authorized by North Carolina law (N.C.G.S. § 44A-11(b)).
- Within 120 days after the last date of furnishing labor or materials to the project site, file the claim of lien with the clerk of superior court in each county where the property is located.
- Ensure that the clerk of superior court affixes an acknowledgment to the filed claim of lien.

For more information on perfecting a claim of lien on real property, including the required contents of the lien claim, see Practice Note, Mechanic's Liens in Practice (Contractor Rights) (NC): Creating a Lien on Real Property ([W-015-8524](#)) and Perfecting a Lien on Real Property ([W-015-8524](#)).

WITHIN 180 DAYS AFTER COMPLETION OF WORK**DETERMINE LIEN PRIORITY**

- Review the record title to the property to determine the priority of the mechanic's lien.
- Conduct a search of the bankruptcy court records to determine if the property owner filed for bankruptcy.
- Review the terms of any subordination agreement between the lien claimant and the lender providing construction financing for the project (if applicable).

For more information relating to the priority of a lien on real property, see Practice Note, Mechanic's Liens in Practice (Contractor Rights) (NC): Priority of a Lien on Real Property ([W-015-8524](#)).

For additional guidance on determining the priority of mechanic's liens in North Carolina, see State Q&A, Real Estate Finance: North Carolina: Questions 6 ([2-567-4906](#)), 7([2-567-4906](#)), and 8 ([2-567-4906](#)).

COMMENCE ACTION TO ENFORCE THE LIEN CLAIM**File a Complaint**

- Within 180 days after the last date of furnishing labor or materials at the project site, file a complaint in any county where a party to the action resides.

- Name the property owner as a defendant in the action. Include any other adverse lien claimants that have an interest in the property.
- If the property owner has filed bankruptcy, file a proof of claim with the receiver or the bankruptcy court instead of filing a civil complaint (N.C.G.S. § 44A-13(a)).

For more information on filing an action to enforce a lien on real property, including proper parties to name as defendants, see Practice Note, Mechanic's Liens in Practice (Contractor Rights) (NC): Filing the Action ([W-015-8524](#)) and Parties to the Action ([W-015-8524](#)).

For information on commencing an action in North Carolina generally, including the required contents of the complaint, see State Q&A, Commencing an Action: North Carolina ([W-000-3306](#)).

File a Notice of Lis Pendens

- If required, prepare a notice of lis pendens (N.C.G.S. § 1-116(b); see Practice Note, Mechanic's Liens in Practice (Contractor Rights) (NC): Notice of the Action ([W-015-8524](#))).
- After filing the complaint (or proof of claim), but within 180 days after the last date of furnishing labor or materials at the project site, file the notice of lis pendens in each county where the real property is located except the county where the civil action is filed.

For more information on filing a notice of lis pendens, including the contents of the notice, see State Q&A, Provisional Remedies: North Carolina: Question 10 ([W-000-5472](#)).

OBTAIN JUDGMENT AND EXECUTE ON THE LIEN CLAIM

- Obtain a final judgment in the lien enforcement action:
 - determining the principal amount of the lien, including interest and attorneys' fees; and
 - directing the sale of the real property.
- Execute on the judgment by selling the improved real property to pay the lien.
- Ensure that the sale of the improved real property and the distribution of proceeds are conducted under the execution sale provisions of North Carolina law (N.C.G.S. §§ 1-339.41 to 1-339.76).

For more information on obtaining a final judgment, including other remedies available in a lien enforcement action, see Practice Note, Mechanic's Liens in Practice (Contractor Rights) (NC): Judgment ([W-015-8524](#)).

WAIVING AND DISCHARGING LIENS**EXECUTE A LIEN WAIVER**

- Review the terms of the construction contract to confirm that it does not contain a prohibited waiver of the claimant's lien rights (see Practice Note, Mechanic's Liens in Practice (Contractor Rights) (NC): Waiver of Lien Rights ([W-015-8524](#))).
- Consider executing a written mechanic's lien waiver periodically as payments are made to waive, release, or discharge a lien on real property (in whole or in part) on receipt of:
 - partial payment (for example, progress payments); or
 - final payment.

DISCHARGE A LIEN ON REAL PROPERTY

- Confirm that the claim of lien on real property is properly filed with the clerk of superior court in each county where the property is located.
- Discharge (or release) the claim of lien on real property using one of six approved methods under North Carolina law (N.C.G.S. § 44A-16(a)).

For more information on discharging or releasing a lien on real property, see Practice Note, Mechanic's Liens in Practice (Contractor Rights) (NC): Discharging a Lien on Real Property ([W-015-8524](#)).

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