

## South Dakota Mechanic's Liens

TIME DEADLINES  
(When to File and Serve Your Mechanic's Lien & Pre-Lien Notice)

To File a Lien--Go to: [South Dakota Mechanic's Lien Forms](#)

More Info: [www.NationalLienlaw.com](http://www.NationalLienlaw.com)

**Questions?**

**(800) 995-9434**

**Notice of Project Commencement  
(Served by Owner or General  
Contractor)**

| <b>When to Serve/File</b>  | <b>Comments</b>       |
|--|-----------------------|
| File/record within 30 days of starting work on the project. Optional, but recommended. | See Lien Law Summary. |

**Notice of Furnishing  
Labor or Materials  
(Sub-Subcontractor or  
Supplier to a  
Subcontractor only)**

| When to Serve/File  | Comments              |
|---|-----------------------|
| Within 60 days after furnishing the last labor and materials on your portion of the job – if the prime contractor has recorded a “Notice of Project Commencement” and posted a “Location Notice”. | See Lien Law Summary. |

**Mechanic’s Lien**

| When to Serve/File                                | Comments              |
|---|-----------------------|
| <b>General, Sub,<br/>Suppliers</b>                | See Lien Law Summary. |
| Within 120 days of completion of overall project. |                       |

## **How to Count the Days—South Dakota Mechanic’s Lien**

South Dakota Pre-Lien notices and South Dakota mechanic’s liens are unforgiving—if you miss the deadline by one day, your lien rights will be lost. Assume hypothetically you last furnished labor and materials on April 10 (these examples are based on calendar year 2016, but the same principles apply to any year) and have 90 days thereafter to record your South Dakota lien. To count the days correctly, follow these steps:

- Ignore the first day—the day of last furnishing the labor or materials (April 10). The courts give you 90 full days after completion and that would not be the case if you finished at 5:00 P.M. on April 10 and it counted as the first full day. It would end up being some strange fraction of a day that is too hard to calculate. Day 1 will be April 11. Day 1 can be either a workday, weekend or holiday. In this case, the first day is Monday, April 11.
- Count with calendar days not work days.
- Count weekends and federal holidays.

- If the LAST day falls on a weekend or holiday, you get the next business day to record your South Dakota mechanic's lien.
- When you record a South Dakota lien with the Court Clerk/Recorder, it is easy to know the deadline is met because the papers are date-stamped. If you are only serving (for example a pre-lien notice on the owner or general contractor) and not recording, you are OK in most states if the mailing is stamped and placed in a post office box or the post office before mail pick-up, by the last day—even if the addressee gets it later. You will have proof of mailing to show it was mailed on time. However, some states require the mailing be received by a certain date. If you have any doubts, give us a call and we will research the South Dakota mechanic's lien statute for you (800-995-9434; [info.NationalLienLaw@gmail.com](mailto:info.NationalLienLaw@gmail.com)).
- There is a big difference between a time limit of 3 months and 90 days. For 3 months you do not count the days and simply go forward three months. In our example of the last day of furnishing labor or materials being April 10, the third month deadline would be July 10. The 90<sup>th</sup> day is actually July 9--this is one day shorter because May has 31 days.
- To summarize, if the last day of work was April 10, 2016, you have until July 11, 2016 to record the South Dakota mechanic's lien because the 90<sup>th</sup> day is Saturday, July 9.
- When in doubt—file or serve the lien early. If you have no choice but to do it on the last day, make it earlier in the day and go in personally to the clerk's office--in case you have to go back and pick-up more papers, forget something or get caught in traffic. And, if you think the last day is on a weekend or holiday—play it safe and file the South Dakota mechanic's lien on the business day before.
- If you have not recorded a South Dakota mechanic's lien before or are uncertain about the process, it would just be your luck to send it out by mail or overnight delivery, and have the Clerk reject it for some technicality—only to receive the South Dakota lien back in the mail after the time has expired. To prevent this, personally take it in at least the day

before, so you have time to revise your paper work. It also gives you the advantage of being able to talk to a live person who will usually tell you exactly what format is required for the South Dakota mechanic's lien. Or pay approximately \$75 and have a messenger service/process server (see the yellow pages) do it. Finally, never send the papers by regular mail (use overnight delivery) if you are 5 or less days before the lien deadline. Good luck.

For more information and to view the South Dakota Mechanic's Lien Law Summary, [CLICK HERE](#).

Prepared by:

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