

Virginia Mechanic's Liens

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

To File a Lien--Go to: [Virginia Mechanic's Lien Forms](#)
More Info: www.NationalLienlaw.com

Questions?

(800) 995-9434

**Notice of Contract to
Mechanic's Lien
Agent (Residential
Projects Only—
Generals, Subs,
Suppliers)**

When to Serve/File	Comments
<p>Serve the mechanic's lien agent when you first start work, but not later than 30 days of first furnishing your labor or material.</p> <p>The mechanic's lien agent must by statute be listed in the building permit which is posted at the property. If not posted or not included in the permit, there is a requirement to use "reasonable inquiry" with the "appropriate authorities." This means examining the file at the Building Inspection Department. No requirement to serve the Notice if the agent is not listed with the Department.</p>	<p>See Lien Law Summary.</p>

**Notice to Owner of
Mechanic's Lien
(Residential and
Commercial
Projects—Subs and
Suppliers With a
Contract With the
General)**

When to Serve/File	Comments
After filing the mechanics lien, serve the owner immediately.	See Lien Law Summary.

**Notice to Owner of
Mechanic's Lien
(Residential or
Commercial
Projects—Sub-Subs
and Suppliers With a
Contract with Another
Sub)**

When to Serve/File	Comments
After filing the mechanic's lien, serve the owner and general contractor early.	See Lien Law Summary.

**Notice to Owner and
General under Va.
Code Section 43-11
(Residential Projects
Only—Subs and
Suppliers)**

When to Serve/File	Comments
At any time after performing work and money is owed. No later than 30 days after completion of the entire project.	This is a complex Notice—please see Lien Law Summary.

**Mechanic's Lien
("Memorandum for
Mechanic's Lien")
Residential and
Commercial**

When to Serve/File	Comments	
<table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">General, Sub, Supplier</td> </tr> </table> <p>Within 90 days after the last day of the month in which your final labor or materials are furnished, or 90 days after the overall project completion, whichever is earlier.</p>	General, Sub, Supplier	See Lien Law Summary. Subs and sub-subs on commercial and residential projects must also send a "Notice to Owner" of the filing of their liens to the owner (for subs) and the owner plus the general (for sub-subs). There is no time limit for this Notice, but it is recommended you serve early and before the owner pays the balance on the contract with the general. The general serves this Notice only on residential projects.
General, Sub, Supplier		

How to Count the Days—Virginia Mechanic's Lien

Virginia Pre-Lien notices and Virginia 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 Virginia 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 Virginia mechanic's lien.
- When you record a Virginia 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 Virginia mechanic's lien statute for you (800-995-9434; 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 90th 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 Virginia mechanic's lien because the 90th 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 Virginia mechanic's lien on the business day before.
- If you have not recorded a Virginia 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 Virginia 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 Virginia 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 Virginia Mechanic's Lien Law Summary, [CLICK HERE](#).
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