



TEXAS

TX

PRIVATE WORKS

RIGHTS AVAILABLE: Mechanic's Lien

Texas Property Code Title 5; Chapter 53 (liens)
TPC §36.25.010 et seq.

FIRST STEP

FILING

CLAIMANT

PRELIM NOTICE

OTHER NOTICES

LIEN

SUIT

Original Contractor

Not Required

Not Required

Lien Affidavit: Record lien not later than the fifteenth day of the fourth month after the day on which the debt accrues (TPC Section 53.052) (debt accrues upon the last day of the month in which written declaration of termination of the original contract by either party is received by the other party, or last day of the month in which the original contract was completed, finally settled or abandoned). {TPC Section 53.053 b.}. Must serve owner a copy of the Affidavit within 5 days of filing. TPC §53.055

Residential Construction: The later date of: (1) 1 year after the last day claimant may file a lien; or (2) 1 year after date of completion, termination or abandonment or work under lien. TPC Section 53.158.

All Other Construction: The later date of: (1) 2 years after last day claimant may file a lien; or (2) 1 year after date of completion, termination abandonment of work under lien. TPC §53.158.

CLAIMANT

PRELIM NOTICE

OTHER NOTICES

LIEN

SUIT

**Subcontractor/
Materialman** (in privity with prime contractor)

Not Required

Written notice to owner or reputed owner, with copy to the original contractor, not later than the fifteenth day of the third month following each month in which all or part of labor was performed or material delivered. (TPC §53.056 b.)
Residential – send notice by 15th day of the second month.

Record lien not later than fifteenth day of the fourth month (third month, if residential) after debt accrues. TPC §53.052. (debt accrues on the last day of the last month in which labor performed or material furnished). {TPC §53.053 c.}. Must serve owner or reputed owner and original contractor a copy of the affidavit within 5 days of filing. TPC §53.055.

Residential Construction: The later date of (1) 1 year after the last day claimant may file a lien; or (2) 1 year after date of completion, termination or abandonment or work under lien. TPC §53.158.

All Other Construction: The later date of: (1) 2 years after last day claimant may file a lien; or (2) 1 year after date of completion, termination abandonment of work under lien. TPC §53.158.



TEXAS

PRIVATE WORKS CONT.

RIGHTS AVAILABLE: Mechanic's Lien¹

TPC §53.001 et seq.

FIRST STEP

FILING

<u>CLAIMANT</u>	<u>PRELIM NOTICE</u>	<u>OTHER NOTICES</u>	<u>LIEN</u>	<u>SUIT</u>
Subcontractor/ Materialman (not in privity with the prime contractor)	Not required	1) Written notice of debt to original contractor not later than the fifteenth day of the second month following each month in which all or part of claimant's labor was performed or delivered. 2) Written notice to owner or reputed owner and original contractor not later than the fifteenth day of the third month following each month in which all or part of labor was performed or material delivered. (TPC §53.056 b.)	Lien Affidavit: Record not later than fifteenth day of the fourth month (third month, if residential) after the day on which the day on which the debt accrues (debt accrues on last day of last month in which materials were furnished). {TPC Section 53.053 c.}. Must serve owner or reputed owner and original contractor a copy of the affidavit within 5 days of filing. TPC §53.055.	Residential Construction: The later date of: (1) 1 year after the last day claimant may file a lien; or (2) 1 year after date of completion, termination or abandonment or work under lien. TPC Section 53.158. All Other Construction: The later date of: (1) 2 years after last day claimant may file a lien; or (2) 1 year after date of completion, termination abandonment of work under lien. TPC §53.158.

PRIVATE WORKS

RIGHTS AVAILABLE: For specially fabricated material (reasonably unsuitable for use elsewhere)

TPC §53.001 et seq.

<u>CLAIMANT</u>	<u>PRELIM NOTICE</u>	<u>OTHER NOTICES</u>	<u>LIEN</u>	<u>SUIT</u>
Original Contractor	Notice to Owner: To Owner or reputed owner not later than fifteenth day of the second month following the month in which the order was received and accepted by claimant.	Not Required	Record lien not later than fifteenth day of fourth month after debt accrues. (debt accrues on last day of last month in which materials were furnished, delivered or would normally have been required at the job site; or of month in which contract was breached or terminated by owner or contractor). {TPC Section 53.053 d.}. Must serve owner or reputed owner and original contractor a copy of the affidavit within 5 days of filing. TPC §53.055.	Suit must be commenced within 6 month after maturity of entire debt.



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TEXAS

PRIVATE WORKS CONT.

RIGHTS AVAILABLE: For specially fabricated material (reasonably unsuitable for use elsewhere).

FIRST STEP

FILING

CLAIMANT

PRELIM NOTICE

OTHER NOTICES

LIEN

SUIT

**Subcontractor,
Materialman**

Notice to Owner: To Owner or reputed owner & contractor not later than fifteenth day of the second month following month in which the order was received and accepted by claimant. {TPC Section 53.058 b.}.

Notice of Unpaid Balance: - if delivery has been made or if the normal time for delivery is passed: To original contractor not later than fifteenth day of the second month following each month in which there was performance and in addition, written notice of unpaid balance to owner or reputed owner & original contractor not later than fifteenth day of the third month following each month in which there was performance. {TPC 53.056}.

Record lien not later than fifteenth day of fourth month (third month, if residential) after debt accrues. Debt accrues on last day materials were furnished, delivered or would normally have been required at the job site; or of month in which contract was breached or terminated by Owner or Contractor. {TPC Section 53.053 d}. Must serve owner or reputed owner and original contractor a copy of the affidavit within 5 days of filing. TPC §53.055.

Residential Construction: The later date of: (1) 1 year after the last day claimant may file a lien; or (2) 1 year after date of completion, termination or abandonment or work under lien. TPC Section 53.158.

All Other Construction: The later date of: (1) 2 years after last day claimant may file a lien; or (2) 1 year after date of completion, termination abandonment of work under lien. TPC §53.158.



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TEXAS

PRIVATE WORKS CONT.

RIGHTS AVAILABLE: Mechanics' Lien Stop Notice & Lien on Funds where contract calls for retainage¹

FIRST STEP

FILING

CLAIMANT

PRELIM NOTICE

OTHER NOTICES

LIEN

SUIT

**Subcontractor,
Materialman**

Written notice pursuant to TPC §53.056 and/or written notice of retainage agreement to owner or reputed owner not later than the fifteenth day of the second month following the delivery of materials or performance of labor first occurring after making the retainage agreement. {TPC Section 53.057}

Not Required

Lien on Retainage Funds: Written demand to the owner for amount of claim with a copy to the prime contractor. If Prime contractor does not dispute claim, owner must pay. {TPC §53.083}

The later date of: (1) 2 years after last day claimant may file a lien; or (2) 1 year after date of completion, termination abandonment of work under lien. TPC §53.158.

PRIVATE WORKS

RIGHTS AVAILABLE: Suit on Private Bond - minimum 100%

CLAIMANT

PRELIM NOTICE

OTHER NOTICES

LIEN

SUIT

**Subcontractor,
Materialman**

If perfecting solely under {TPC 53.206}, same as with Mechanics' Lien, except all required Notices to Surety instead of owner.

If perfecting solely under {TPC 53.206}, same as with Mechanics' Lien, except all required Notices to Surety instead of owner. {TPC 53.206}. No need to give Notice to Surety under {TPC 53.057} unless claimant has direct contractual relationship with original contractor and agreed retainage exceeds ten (10%) percent. Also, no need to give Notice to Surety under §53.058(b).

If relying solely on {TPC 53.206}, no need to file lien affidavit, otherwise same as with Mechanics' Lien.

File suit not more than 1 year after claim perfected, if bond recorded at time lien affidavit filed, otherwise within 2 years after claim perfected. {TPC 53.208}.

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TEXAS

PRIVATE WORKS

RIGHTS AVAILABLE: Suit on Bond to remove Mechanics' Lien

FIRST STEP

FILING

CLAIMANT

PRELIM NOTICE

OTHER NOTICES

LIEN

SUIT

**Subcontractor,
Materialman**

Not Required

Not Required

Not Available

Same as on liens, but not more than 1 year after notice of bond is served or underlying lien claim becomes unredeemable under § 53.175.



TEXAS

PUBLIC WORKS

RIGHTS AVAILABLE: Suit on Payment Bond - minimum 100% where prime contract is over \$25,000.00 & claim against retainage if called for in contract¹.

TX Gov. Code
Ch 2253 (Bonds)

FIRST STEP

FILING

CLAIMANT

PRELIM NOTICE

OTHER NOTICES

LIEN

SUIT

Subcontractor, Materialman
(direct contractual relationship with prime contractor).
{TGC 2253.041}.

Not Required

Not Required

Notice of Nonpayment and statement of Account: To prime Contractor & Surety accompanied by a sworn statement of account on or before the fifteenth day of third month following each month in which there was performance.
{TGC§ 2253.041}.

File suit not more than 1 year after date of giving notice.
{TGC 2253.078}.

Notice of Claim for Retainage: To Prime Contractor and Surety on or before 90th day after final completion of contract (not required if amount claimed as part above Notice).
{TGC § 2253.046}

Subcontractor, Materialman
(No direct contractual relationship with prime contractor).
{TGC 2253.047}.

Notice of Retainage Agreement: To Prime Contractor on or before the fifteenth day of the second month after the date of first performance.

Notice of Claim: To Prime Contractor on or before the fifteenth day of the second month following each month of delivery of material or performance of work.

Additional Notice – Specially Fabricated Goods: To Prime Contractor on or before fifteenth day of second month after receipt and acceptance of order.
{TGC 2253.047}.

Notice of Nonpayment and statement of Account: To prime Contractor & Surety accompanied by a sworn statement of account on or before the fifteenth day of third month following each month in which there was performance.
{TGC§ 2253.041}.

Notice of Claim for Retainage: To Prime Contractor and Surety on or before 90th day after final completion of contract (not required if amount claimed as part above Notice).
{TGC § 2253.046}

Not Available

File suit not more than 1 year after date of giving notice.
{TGC 2253.078}.



TEXAS

PUBLIC WORKS CON'T.

RIGHTS AVAILABLE: Stop Notice & Lien on Unexpended Funds where prime contract is for \$25,000.00 or less (\$50,000 or less for municipality or airport joint board) & no bond is required.

FIRST STEP

FILING

<u>CLAIMANT</u>	<u>CLAIMANT</u>	<u>OTHER NOTICES</u>	<u>LIEN</u>	<u>SUIT</u>
Subcontractor, Materialman	Not Required	Notice of Lien on Money (Public Project): To Prime Contractor & Public Authority not later than fifteenth day of the second month following each month in which labor was performed or material furnished but before such contractor is paid. {TPC § 53.232-.239}	Not Available	Not Available

PUBLIC WORKS

RIGHTS AVAILABLE: Suit on Bond Posted to remove Lien on Unexpected Funds

<u>CLAIMANT</u>	<u>CLAIMANT</u>	<u>OTHER NOTICES</u>	<u>LIEN</u>	<u>SUIT</u>
Subcontractor, Materialman	Not Required	Not Required	Not Available	File suit within 6 months after date on which bond is filed. {TPC 53.239}.



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TEXAS

THE DETAIL OF TEXAS STATUTES THAT ARE NOT OBVIOUS:

Be sure to call the designated network attorney when involved with Texas lien law

SUMMARY OF TEXAS MECHANICS' AND MATERIALMAN'S LIEN LAWS: NOTICE AND FILING REQUIREMENTS

ORIGINAL CONTRATOR DEADLINES

DERIVATIVE CLAIMANT DEADLINES

<u>Lien or Materials</u> Furnished In:	<u>Lien Affidavit</u> Must Be Filed By:	<u>Labor or Materials</u> Furnished In	<u>Last Day to Send</u> Notice to Original Contractor	<u>Last Day to Send</u> Notice to Property Owner Be Filed By	<u>Lien or Materials</u> Furnished in:
January	May 15	January	March 15	April 15	May 15
February	June 15	February	April 15	May 15	June 15
March	July 15	March	May 15	June 15	July 15
April	August 15	April	June 15	July 15	August 15
May	September 15	May	July 15	August 15	September 15
June	October 15	June	August 15	September 15	October 15
July	November 15	July	September 15	October 15	November 15
August	December 15	August	October 15	November 15	December 15
September	January 15	September	November 15	December 15	January 15
October	February 15	October	December 15	January 15	February 15
November	March 15	November	January 15	February 15	March 15
December	April 15	December	February 15	March 15	April 15

If the applicable date falls on a Saturday, Sunday, or legal holiday, the last preceding business day should be considered as the deadline.

Notes:

1. It is important to ask the client if the contract permits its customer to withhold retainage. If it does, then a notice of non-payment MUST be sent each month, even if the balance actually due is paid.