

How to Get Paid in California

A 3-Step Guide to Securing Lien Rights & Getting Paid

In California, the mechanics lien process starts well before payment problems arise. The California mechanics lien is not a standalone document. In order to protect the ability to file a mechanics lien, companies that provide labor, materials, equipment, and more to construction jobs in California must send specific notices ahead of time, long before a payment problem occurs.



What To Know For Each Document

Each document has different requirements that vary according to a number of factors.

It's important to know the following pieces of information in order to determine notice requirements and deadlines.

- The state in which the project is located (California)
- Your role on the project
- The role of the party that hired you
- The type of project (e.g. public, private)

Once that information is collected, it will be possible to answer the following questions as they relate to a specific project.

- Which documents are required?
- When is the deadline to send or file the document?
- Who must receive the document?
- What must the document look like, and what information must it contain?
- How must the document be delivered?

STEP 1: Preliminary Notice

Sending a preliminary notice is the first step in the lien process. In California, this document is often called a '20 Day Notice' or a 'pre lien notice'. Direct contractors are required to send preliminary notice to the construction lender (if any), and all parties not in contract with the property owner are required to send notice to the GC, property owner, and lender (if any). The purpose of sending notice is to inform key project stakeholders of who is working on a project, and to protect the right to file a lien..

But remember, sending preliminary notice is a precaution, not a reaction. It must be sent **before** a problem arises. In California, preliminary notice should be sent within 20 days of starting work on a project.

STEP 2: Notice Of Intent To Lien

Notice of Intent to Lien (NOI) is the final warning before a lien is filed. It gives the paying party one last chance to settle the bill before they face a mechanics lien.

California is not one of the 9 states that requires NOIs. However, even when not required, an NOI is an **incredibly effective** tool for collecting payment. Parties making payment want to avoid being liened, and sending an NOI shows them you're serious while giving an opportunity to resolve the dispute. This notice is typically sent after preliminary notice is sent and a few weeks before a lien is filed.

Lien Waivers

You may be asked to sign a lien waiver during a project. Unlike the other documents discussed here that protect lien rights, lien waivers waive (give up) lien rights. Payers (like GCs, lenders, and property owners) often request signed lien waivers from payees to protect themselves against double payment (paying parties don't want to pay and have a lien filed against them).

- You may be asked to sign multiple lien waivers throughout a project (usually 1 waiver per payment).
- Be careful about waiving lien rights before you actually receive payment.

California is one of 12 states that outline specific lien waiver templates in its lien statute. If this specific template is not used, the waiver may be invalid.

STEP 3: California Mechanics Lien

Mechanics liens are the most effective collections remedy for unpaid contractors, suppliers, and other parties. Filing a mechanics lien turns the job site into collateral for the payment owed to the lien claimant. Therefore, filing a lien strongly motivates the liened party to resolve your payment issue.

In California, all liens must be filed within 90 days of the completion of work, unless the owner records a Notice of Completion or Cessation. If the owner records one of these notices, the deadline to file a lien is shortened to 60 days for direct contractors, and 30 days for parties not in contract with the property owner. Action to enforce the lien must be commenced within 90 days of recording.

What happens if you file a lien and still aren't paid? Here are a few options:

- Release the Lien
- Extend the deadline to enforce the lien
- Enforce the lien in court