

# Mechanic's Liens (WA)

A Practical Guidance® Practice Note by Katie J. Comstock, Levy | von Beck | Comstock | P.S.



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This practice note provides guidance on the mechanic's lien process in Washington State, including preliminary lien notices, final lien notices, and filing suit to enforce a lien. The litigation of the suit, including possible defenses and foreclosure of the claim of lien are beyond the scope of this practice note.

For information on mechanic's liens generally, see [Mechanic's Lien Resource Kit](#), [Mechanic's Lien State Laws Survey](#), and [Prompt Payment Acts and Lien Waivers \(Private Construction\) State Law Survey](#). For mechanic's lien forms for use in Washington, see [Mechanic's Lien Resource Kit \(WA\)](#).

## Legal Framework and Initial Considerations

Wash. Rev. Code § 60.04.021 provides that, subject to some exceptions, "any person furnishing labor, professional services, materials, or equipment for the improvement of real property shall have a lien upon the improvement for the contract price of labor, professional services, materials, or equipment furnished at the instance of the owner, or the agent or construction agent of the owner."

### Work That Qualifies for a Lien

Mechanic's liens authorized by Wash. Rev. Code § 60.04.021 apply to most improvements to real property, or to a street or road adjoining the same at the direction of the owner, apparent owner, or construction agent including the following:

- Construction
- Alteration
- Repair
- Remodel
- Demolition work
- Planting and removing trees or shrubs –and–
- Providing professional services such as architectural and engineering services upon real property in preparation for or in conjunction with those activities

The critical issues in analyzing whether the work is covered are whether the work (1) is done at the site and (2) improves the subject property. Mere administrative tasks, including management and coordination services performed by a property developer are not lienable. Operative services, such as those performed by a foreman or superintendent, are lienable. *Pac. Indus., Inc. v. Singh*, 86 P.3d 778 (2003).

A potential lien claimant is not entitled to a lien for any work done prior to the date when the owner under the claimant's contract owned the property. The claim of lien cannot relate back to a date prior to the inception of the contracting party's ownership. *Pac. Realty Associates, L.P. v. Pac. Ventures Redmond Ridge LLC*, 162 Wn. App. 1036 (2011) (unpublished opinion).

## Parties Entitled to a Lien

Mechanics liens are available to most construction professionals including the following:

- Contractors
- Laborers
- Materials suppliers
- Architects
- Engineers
- Those supplying equipment to the owner
- Developers
- Those performing tree removal services
- Cabinet installers
- Consultants acting as prime contractors
- A person who offers to sell his or her property without occupying or using it for a period of one year after the date of substantial completion or abandonment
- A person who superintends or consults on contracting work
- A person who performs the activities of a contractor for selling or leasing improved property the person has owned for less than a year –and–
- A person who performs the activities of a contractor on his or her own property for selling, demolishing, or leasing the property

Note, however, that a party who merely provides construction management services is neither a laborer nor a provider of professional services and is not entitled to a lien. Wash. Rev. Code §§ 18.27.090, 60.04.021; *Blue Diamond Grp., Inc. v. KB Seattle 1, Inc.*, 162 Wn. App. 1060 (2011) (unpublished opinion).

Contractors and subcontractors are generally required to be registered with the state. Wash. Rev. Code § 18.27.020(1). Any contractor for whom registration is required must be registered to claim a lien. It is a gross misdemeanor for a contractor to subcontract to or use an unregistered subcontractor. Wash. Rev. Code § 18.27.020(2)(e).

The term contractor is read more broadly in the lien statutes than it is in the contractor's registration statutes. In some limited instances, potential lien claimants may obtain mechanic's liens without being registered. For example, rental tenants who make improvements to the rented residential property where they themselves reside are considered contractors for purposes of obtaining a mechanic's lien against the property but are not considered

contractors under the contractor registration statutes. As a result, such tenants are not required to register as contractors in order to have lien rights. *Andries v. Covey*, 113 P.3d 483 (2005). Material suppliers who only supply and do not install materials are also not required to be registered and therefore need not be registered in order for their lien rights to arise. *Arctic Stone, Ltd. v. Dadvar*, 112 P.3d 582 (2005); Wash. Rev. Code § 18.27.090.

A claimant who contracted with a prime contractor or subcontractor required to be licensed under the statute only has lien rights if the prime contractor or subcontractor with whom they claim privity is in fact registered or licensed. A claimant's right to lien is established so long as the party with whom the claimant is in privity is registered, regardless of whether higher tier contractors are properly registered. For example, if a supplier provides materials to a registered subcontractor, but the subcontractor is performing its work under a contract with an unregistered prime contractor, the subcontractor does not have lien rights, but its supplier does. Wash. Rev. Code § 60.04.041.

## Preliminary Notice Requirements

To obtain a mechanic's lien, a potential lien claimant must provide the requisite preliminary notice. The notice required at this preliminary stage varies based on whether the potential lien claimant is in privity with the property owner and the nature of the work performed. Washington statutes differentiate between the notice required to be given by prime contractors (those in privity with the property owner or apparent owner) and other subcontractors who are not in privity of contract with the owner, but are performing work subject to a contract with someone other than the owner or the owner's common law agent.

### Prime Contractor Notices

#### *Notice to Customer*

In many instances, prime contractors are required to provide a model disclosure statement called a Notice to Customer. This notice is distinct from and should not be confused with the Notice to Owner that is discussed below. The purpose of this notice is to alert the owner to their potential exposure to liens based on the contract work.

When a Notice to Customer is required, the prime contractor must provide a disclosure statement to the property owner highlighting the risk that the property might be liened. The Notice to Customer must be given to

the property owner where the work involves either of the following:

- The repair, alteration, or construction of a residential building with four units or fewer –or–
- The repair, alteration, or construction of a commercial building, where the contract price for the contractor's work is greater than \$1,000 but less than \$60,000

Wash. Rev. Code § 18.27.114.

For the purposes of these requirements, residential buildings of five or more units, especially those where the owner does not reside on site, are considered commercial. *A.W.R. Const., Inc. v. Washington State Dep't of Labor & Indus.*, 217 P.3d 349 (2009).

If the work falls into either of these categories, the prime contractor must provide a Notice to Customer in the statutorily prescribed form. To comply with this requirement, the prime contractor must do the following:

- Give the Notice to Customer to the owner
- Obtain a signed copy from the owner –and–
- Retain a copy of the signed notice for three years and produce the same if asked to do so by the Washington Department of Labor and Industries

Wash. Rev. Code § 18.27.114.

The statute does not mandate any specific manner of delivering the Notice to Customer, but it must be received by the customer to be effective. The timing of this notice is similarly important, as it must be given before the contract work begins. Failure to properly provide notice will prevent the prime contractor from bringing a lawsuit to enforce a mechanic's lien.

For an example notice to customer, see [Notice to Customer \(Mechanic's Lien\) \(WA\)](#).

### **Notice to Subcontractors**

In addition to notifying the customer of their exposure to liens, the prime contractor must also notify all sub-tier contractors of the owner and property information. Wash. Rev. Code § 60.04.261. The purpose of this notice is to give subcontractors (i.e., those not in privity with the property owner) all the information that they would need to effectively lien the property if it becomes necessary for them to do so. The information provided must include the following:

- Legal description or tax parcel number of the project
- Street address

- Property owner's name, address, and phone number
- Prime contractor's business name, address, and phone number
- Contractor registration number –and–
- Either:
  - The name, address, and phone number of the lender –or–
  - The name and address of the firm that issued a payment bond on the prime contractor's behalf

Wash. Rev. Code § 60.04.261.

The prime contractor has a duty to provide this information "to any person who has contracted to supply materials, equipment, or professional services or who is a subcontractor on the improvement." Wash. Rev. Code § 60.04.261. The prime contractor must provide the information to each subcontractor soon as the subcontractor's identity and mailing address are made available. For contracts where the work totals more than \$5,000, the prime contractor must also post this information in plain view at the jobsite.

### **Subcontractor's Notice to Owner**

Subcontractors are obligated to provide a Notice to Owner. This notice is distinct from and should not be confused with the Notice to Customer discussed above.

Whereas prime contractors must provide both the Notice to Customer initial disclosure and provide subcontractors with information regarding the property and property owner, most subcontractors must themselves provide the property owner with their own Notice to Owner. The purpose of the subcontractor's Notice to Owner is to advise the property owner of the identity of those contractors who might claim liens against the property. Given this purpose, the requirement does not apply to those potential claimants who have contracted directly with the property owner (i.e., prime contractors). The subcontractor's Notice to Owner may be delivered by registered or certified mail or by personal service. To demonstrate compliance with the notice requirement, proof of timely mailing to the proper address is all that is required; a potential lien claimant is not required to demonstrate that the notice was received by the owner.

The subcontractor's Notice to Owner must be sent to both the property owner and—unless the potential lien claimant contracted directly with the prime contractor—to the prime contractor. Wash. Rev. Code § 60.04.031. If the prime contractor fails to post or provide the jobsite information as required under Wash. Rev. Code §§ 60.04.261 and

60.04.230, the subcontractor is not strictly required to provide the prime contractor with the Notice to Owner, however, it is best practice to do so. The Notice to Owner may be delivered by registered or certified mail or by personal service. The notice is deemed received upon actual receipt by personal delivery or three days after mailing (excluding weekends and holidays) by registered or certified mail. Wash. Rev. Code § 60.04.031; Baker v. Altmayer, 851 P.2d 1257 (1993).

For an example form, see [Notice to Owner \(Mechanic's Lien\) \(WA\)](#).

Depending on the type of project, certain subcontractors may not be required to provide the Notice to Owner. These special notice requirements include work for residential remodels or repairs, most work done to properties other than owner-occupied single-family residences, optional notice for professional services rendered before improvement has commenced on a property, and optional notice to a real property lender. These special sets of rules are detailed below.

### ***Notice Requirements for Residential Remodel or Repair***

The first set of rules applies when the work being performed is a repair, remodel, or alteration of an existing, owner-occupied, single-family residence (or appurtenant garage).

In this case, the potential lien claimants who must give notice to the owner include those subcontractors and providers of professional services, materials, or equipment who do not contract directly with the owner-occupier. In this context, professional services include those provided by surveyors, engineers, and architects for the improvement of real property. Subcontractors who provide only labor do not need to give notice, but subcontractors who provide labor and either materials, equipment, or professional services need to give the preliminary notice to have lien rights. If no notice is given, a subcontractor who provides both labor and materials will still have those lien rights arising out of the labor, but not those arising from the materials. Labor performed upon material before it is delivered to the job is not lienable as labor.

To summarize, potential lien claimants who must give the Notice to Owner are all contractors and providers of professional services, materials, or equipment except those who either:

- Contracted directly with the owner-occupier –or–
- Are claiming solely for labor

Wash. Rev. Code § 60.04.031; Wash. Rev. Code § 60.04.011; Northlake Concrete Products, Inc. v. Wylie, 663 P.2d 1380 (1983); Pacific Erectors, Inc. v. Gall Landau Young Const. Co., Inc., 813 P.2d 1243 (1991), reconsideration denied, review denied, 827 P.2d 1011; Hayes v. Gwinn, 307 P.2d 1063 (1957).

In this context, the Notice to Owner may be given at any time, but, it will only protect the right to claim a lien for work performed after it is received, and that performed in the 60 days immediately preceding the mailing of the notice or its receipt by personal service. Wash. Rev. Code § 60.04.031. The statute states that notice relates back based on the date of mailing, but the Washington Court of Appeals has nonetheless interpreted the calculation as based on the date of receipt. Wash. Rev. Code § 60.04.031; CHG Intern., Inc. v. Platt Elec. Supply, 597 P.2d 412 (1979).

Subcontractor liens on these projects are limited to the amount not yet paid to the prime contractor by the owner at the time the preliminary notice is received, regardless of whether amounts not yet paid to the prime contractor are due. Wash. Rev. Code § 60.04.031; Top Line Builders, Inc. v. Bovenkamp, 320 P.3d 130 (2014).

### ***Notice Requirements for Projects Not Being Done to Owner-Occupied Single-Family Residences***

When the work is not being done to an existing owner-occupied single-family residence, fewer potential lien claimants are required to provide the Notice to Owner. In this context, notice is required of every potential lien claimant furnishing professional services, labor, materials, or equipment, except the following:

- Those contracting directly with owner
- Those claiming solely for labor –or–
- Licensed or registered subcontractors contracting directly with a prime contractor

The Notice to Owner may be sent at any time but, just like in the context of a residential remodel or repair, the notice only relates back for a set number of days. In the case of new single-family residential construction, notice only relates back 10 days from the date it is received. Wash. Rev. Code § 60.04.031. In all other cases, the notice relates back 60 days before notice is received. The statute states that notices relate back based on the date of mailing, but the court has nonetheless interpreted the calculation to be based on the date of receipt. Wash. Rev. Code § 60.04.031; CHG Intern., Inc. v. Platt Elec. Supply, 597 P.2d 412 (1979).

## Notice of Furnishing Professional Services

In addition to the Notice to Owner, providers of professional services have the option to provide an additional notice. This is a special notice given by those providing professional services where the improvement itself has not been commenced, and the professional services provided are not apparent from a visual inspection of the property. This notice is not required, but if it is not given the claimant will not have priority against anyone who acquires an interest in the property before the improvement begins. Notice of Furnishing Professional Services should be given as a best practice even though not required.

The claimant must provide a notice complying with the statutory form and record the same with the county recorder's office of the county in which the property is located. Failing to record the notice with the county recorder will not bar the potential lien claimant's ability to enforce the lien, but their lien will be subordinate to the interest of any subsequent mortgagee and invalid as to the interest of any subsequent purchaser if the mortgagee or purchaser acts in good faith and for valuable consideration acquires an interest in the property prior to the commencement of an improvement (as defined in Wash. Rev. Code § 60.04.011(5)(a) or (b)) without notice of the professional services being provided. Professional services rendered to property before commencement of an improvement are best recorded with a notice as soon as possible.

For an example form, see [Notice of Furnishing Professional Services \(Mechanic's Lien\) \(WA\)](#).

## Notice to Real Property Lender

Another optional but recommended preliminary notice is a Notice to the Real Property Lender. Giving this notice causes the lender to withhold sums due up to the amount undisbursed as of the date the lender receives the notice. The lender may alternatively obtain a payment bond for the claimant's benefit from the prime contractor or the borrower. The lender cannot release the funds except by the written agreement of claimant, owner, and prime contractor, or by court order. Failure to comply subordinates lender's mortgage to that of the lien claimant to the extent of the smaller of the lien claim or the amount wrongfully disbursed. The funds must be withheld from the next and subsequent draws, not withheld from the total available, in order to draw the contractor's attention to resolving the matter. *Pac. Cont'l Bank v. Soundview 90, LLC*, 273 P.3d 1009 (2012). Note that the lending institution is now required to withhold the full amount due to claimant, up to the amount undisbursed, rather than a percentage thereof as under the previous laws in Washington.

This notice may be given if there is not a payment bond securing at least 50% of the financing amount for the project. If there is no such payment bond, a claimant can file the notice if it remains unpaid for more than five days after the date required by the contract. The claimant has only 35 days after the date the payment was due to provide this notice. The notice is given to (1) the lender at the office administering the financing, (2) the owner, and (3) the prime contractor. It should be sent by registered or certified mail, or personally delivered, in which case proof of delivery must be obtained (i.e., receipt or signed acknowledgment, or affidavit of service). The notice should follow the statutory form, including the following:

- A statement that the claimant has furnished materials, labor, services, or equipment for which a right of lien is given by statute
- The name of the prime contractor, subcontractor, or person ordering materials, etc.
- The street address or legal description of project
- Description of the materials furnished –and–
- The name, address, and telephone number of the lien claimant

Wash. Rev. Code § 60.04.221.

The notice must be signed by the claimant or person authorized to act on the claimant's behalf, under penalty of perjury. (The statutory provisions are to be liberally construed to provide security for all parties intended to be protected thereby. Wash. Rev. Code § 60.04.221.)

If a claimant's notice is unjust, excessive, or premature, the claimant will be liable for damages and attorney's fees of anyone injured thereby, and subcontractors or prime contractors can bring a show cause motion to challenge it.

For an example form, see [Notice to Real Property Lender \(Mechanic's Lien\) \(WA\)](#).

## Final Notice / Claim of Lien

In addition to the preliminary notice requirements described above, potential claimants must also give final notice of their claim of lien. Final notice is required of all claimants. Wash. Rev. Code § 60.04.091.

A final notice of lien claim must be filed with the county recorder no later than 90 days after the last date on which the claimant performed its lienable work or the last date on which its employee benefit contributions were due. A copy of the recorded final notice must also be sent to the property owner within 14 days of recording. The notice can

be sent to the owner via certified or registered mail or may be delivered via personal service. Failure to serve a copy on the owner does not prevent the claimant from obtaining the lien, but it does forfeit any potential right the claimant may have to obtain attorney's fees and costs from the owner. Wash. Rev. Code § 60.04.091.

For a multiunit residential project, the time to file a lien begins to run on each unit separately, as of the date of last delivery to each unit. Wash. Rev. Code § 60.04.091. Also, where work on a contract is performed after a period of inactivity, even a small amount of work or a small number of materials delivered is sufficient to extend the filing date, so long as the additional work was performed at the request of the owner for fulfilling the original contract. Work undertaken by the potential lien claimant solely for extending the filing deadline or pursuant to a separate contract will not change the start date of the 90-day recording period. *Intermountain Elec., Inc. v. G-A-T Bros. Constr., Inc.*, 62 P.3d 548 (2003); *DKS Const. Management, Inc. v. Baker Boyer Bancorp*, 118 Wn. App. 1076 (2003) (unpublished opinion). A claimant may file more than one lien if necessary, but each must be timely filed. The subsequent lien, if it is timely, can include amounts that were included in the earlier lien, even if that lien has expired, although of course double recovery is forbidden. *Geo Exch. Sys., LLC v. Cam*, 65 P.3d 11 (2003).

The statute requires the final notice to state “in substance and effect,” the following information:

- Name, phone number, and address of the claimant
- Dates of first and last deliveries made or work performed, benefits became due, etc.
- Name of the party indebted to claimant
- Street address or legal description of the property
- Name of the owner or reputed owner –and–
- Principal amount of the claim

The recorded notice must also contain an acknowledged signature of the claimant or authorized agent affirmatively stating that they have read the notice of claim of lien and believe it to be true and correct under penalty of perjury. A lien that is acknowledged using the acknowledgment form in the lien statutes, rather than the one in the acknowledgment statutes, is valid, and an authorized agent of the claimant, such as a lien service, may sign the lien in place of the claimant. Wash. Rev. Code §§ 60.04.091, 60.04.131; *Williams v. Athletic Field, Inc.*, 261 P.3d 109 (2011).

The value of the principal amount of the claim is based either on the contract or on the reasonable cost of the services. Where there is a contract, the amount of the claim is calculated based on the outstanding or unpaid contract price. Where there is no contract, the amount of the claim is for the reasonable and customary charge for the labor, materials, etc. provided by the lien claimant. If a claimant has a lien against multiple properties owned by the same owner, a single lien may be filed that covers all properties. A lien that covers two or more separate pieces of property owned by the same person(s), must designate the amount due on each parcel. A claimant who fails to designate the amount due on each parcel, will lose priority. Wash. Rev. Code § 60.04.131. Where the lien pertains to the repair or remodel of an owner-occupied existing single-family residence or garage, and the claimant does not contract directly with the owner-occupier or their agent, the claimant's lien is ultimately limited to the amount not yet paid to the prime contractor at the time the prelien notice was given. Wash. Rev. Code § 60.04.031; *Top Line Builders, Inc. v. Bovenkamp*, 320 P.3d 130 (2014). The taking of a promissory note does not discharge the lien unless it is expressly received as payment and so specifies therein. Wash. Rev. Code § 60.04.191. Where a lien is released but not paid (and no satisfaction, subordination, or waiver is given), the claimant may include work from the released lien in a subsequent lien. *Shelcon Const. Grp., LLC v. Haymond*, 351 P.3d 895 (2015).

For an example form, see [Claim of Lien \(Mechanic's Lien\) \(WA\)](#).

## Enforcing the Lien

A claimant must commence a foreclosure action to enforce a lien. Suit must be filed within eight months of the date the lien was recorded at the county recorder's office. The property owner must be named and served within 90 days after the action is filed. If other claimants who have filed liens are not included in the action, their interests are not foreclosed or affected unless they are joined as parties. The statute no longer renders the suit invalid if other lien claimants are not named—as it did previously. This means that if a mortgagee bank is not included and timely served, the lien claim will not affect the mortgage or have any priority over it.

Sometimes multiple claimants file suit to enforce liens against the same property. If another suit has been filed, a claimant must seek to join the existing suit, rather than starting a new one. The claimant joining another suit must still file its complaint within eight months of filing its lien,

though this time may be extended somewhat while its application to join the existing lawsuit is pending. Wash. Rev. Code § 60.04.171; *CalPortland Co. v. LevelOne Concrete LLC*, 321 P.3d 1261 (2014); *Bob Pearson Const., Inc. v. First Community Bank of Washington*, 43 P.3d 1261 (2002); *Van Wolvelaere v. Weathervane Window Co.*, 177 P.3d 750 (2008). A plaintiff may not dismiss a lien foreclosure to the prejudice of another party to the suit who claims a lien. Wash. Rev. Code § 60.04.141.

### **Amounts Recoverable**

In addition to the principal amount of the claim, interest, costs, and attorney's fees are all recoverable in a suit to enforce a lien.

### **Attorney's Fees**

To obtain attorney's fees, the claimant must have given the owner notice of the claim within 14 days after filing it. To obtain fees upon appeal, the claimant must also devote a section of its opening brief to the issue of attorney's fees. Interest may be awarded on attorney's fees. *Estate of Haselwood v. Bremerton Ice Arena, Inc.*, 210 P.3d 308 (2009); *S.D. Deacon Corp. of Washington v. Gaston Bros. Excavating, Inc.*, 172 Wn. App. 1004 (2012).

On the other hand, the party against whom the lien is claimed is entitled to recover attorney's fees where a lien is rejected because the claimant has not registered under the contractor's registration statutes. *Lopez v. Courville*, 145 Wn. App. 1016 (2008). Similarly, if a lien is paid but the owner must sue to compel its release, the owner may recover fees and damages.

When an owner, contractor, lender, or other claimant believes a lien claim is frivolous or excessive, they may bring a show cause action to challenge the lien. The loser of such a challenge must pay the other side's costs and attorney's fees. Wash. Rev. Code § 60.04.081; *Steadfast Const., Inc. v. Apter*, 146 Wn. App. 1046 (2008); *Gray v. Bourgette Const., LLC*, 249 P.3d 644 (2011). A lien will be declared invalid as excessive only if there is bad faith or an intent to defraud, and the party resisting the lien has the burden of establishing bad faith or an intent to defraud. *Structurals Northwest, Ltd. v. Fifth & Park Place, Inc.*, 658 P.2d 679 (1983).

### **Interest**

Where the parties agree on a written contract and perform at least part of it—or demonstrate their execution of the agreement by their conduct—the term providing for interest may be enforced, even if the parties never

signed the contract. Where the lien requests interest and the complaint requests interest predating the filing of the lien, interest will begin to accrue when payment is due. If either or both of those prerequisites are not met, then prejudgment interest only begins to accrue when the lien is filed. *Shelcon Const. Grp., LLC v. Haymond*, 351 P.3d 895 (2015). Interest may also be awarded on attorney's fees. *Estate of Haselwood v. Bremerton Ice Arena, Inc.*, 210 P.3d 308 (2009); *S.D. Deacon Corp. of Washington v. Gaston Bros. Excavating, Inc.*, 172 Wn. App. 1004 (2012).

### **Costs**

Costs, including the cost of recording the claim of lien, the costs of the title report, bond costs, and other necessary costs incurred by the attorney are also recoverable. These costs have the priority of the class of lien to which they are related. Wash. Rev. Code § 60.04.181.

## **Additional Matters and Considerations**

### **Assignment and Waiver**

Lien claims are assignable. Wash. Rev. Code §§ 60.04.091, 60.04.121. They are also subject to waiver. Though potential claimants may waive their lien rights, "acts of coercion or attempted coercion, including threats to withhold future contracts, made by a contractor or developer to discourage a contractor, subcontractor, or material or equipment supplier from giving an owner the notice of right to claim a lien" or to discourage a claimant from actually filing a lien, are forbidden and in violation of the Consumer Protection Act. Wash. Rev. Code § 60.04.035.

### **Priority of Claims**

If multiple claimants pursue liens against the same property, their claims will be satisfied in the following order of priority:

1. Laborers
2. Contributions owing to employee benefit funds
3. Furnishers of materials, supplies, or equipment
4. Subcontractors –and–
5. Prime contractors and furnishers of professional services

Wash. Rev. Code § 60.04.181.

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For purposes of priority against a deed of trust or a mortgage, a lien claim relates back to the date of the claimant's first performance of labor or services, or the first delivery of materials or equipment, regardless of whether the lien is against the improvement, or the real property, or both. Wash. Rev. Code § 60.04.061; Estate of Haselwood v. Bremerton Ice Arena, Inc., 210 P.3d 308 (2009); Scott's Excavating Vancouver, LLC v. Winlock Properties, LLC, 308 P.3d 791 (2013). The work must be done for an immediate purpose of beginning an improvement, and must be part of a larger, lienable labor and materials contract.

### **Lien Release Bond**

If a lien is recorded against a property, the lien causes problems for the homeowner by injuring their title and making financing and sale of the property more difficult. Because of these issues, there is a strong incentive on the part of the property owner to hold the property free of any liens. In some cases, property owners may choose to bond

around—or require their prime contractor to bond around—the lien. The bond is an assurance from a surety company that, if the bond claim is proven, it can be satisfied out of cash supplied by the surety instead of a foreclosure sale of the property. By obtaining a bond to cover the lien claim, a property owner or prime contractor can often free the property of the lien. The filing of a lien release bond does not prevent the court from determining lien priorities or the validity of a lien, it only transfers the claim from the property to the bond, allowing the owner to transfer the property free of liens. To foreclose on a lien release bond, the surety is the only necessary party. DBM Consulting Engineers, Inc. v. U.S. Fid. & Guar. Co., 170 P.3d 592 (2007); Olson Eng'g, Inc. v. KeyBank Nat. Ass'n, 286 P.3d 390 (2012); Inland Empire Dry Wall Supply Co. v. W. Sur. Co., 389 P.3d 717 (2017), aff'd sub nom. Inland Empire Dry Wall Supply Co. v. W. Sur. Co. (Bond No. 58717161), 408 P.3d 691 (2018).

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