Construction Lien Flowchart (WA)

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A Flowchart outlining the construction lien process in Washington. This Flowchart includes preliminary notice requirements and the procedures for perfecting, enforcing, and releasing a construction lien.

Construction Lien Under Chapter 60.04 of the Revised Code of Washington, a claimant may use a construction lien (also known as a mechanics' lien or materialmen's lien) to secure payment for the labor, services, materials, or equipment it provides to improve privately owned real property (lienable work). Potential claimants include: Registered contractors. Subcontractors (any tier). ■ Laborers. Primary (first-tier) suppliers. Licensed professionals (such as architects, engineers, and surveyors). **Evaluate the Subject Property** Consider ordering a title search to determine: ■ The subject property's legal description. ■ The extent of the owner's interest in the property. ■ Whether there are any mortgages, deeds of trust, or other liens or encumbrances against the property. Satisfy the Preliminary Requirements (Contractor) Verify each contractor is registered with the Department of Labor and Industries (L&I) and satisfies all other preliminary requirements before beginning the project.



Provide a Disclosure Statement (Contractor)

Confirm each contractor provides the owner with a model disclosure statement notice (disclosure statement) in the statutory form if the project involves either:

- Four or fewer residential units or accessory structures with a contract price of at least \$1,000.
- A commercial building with a contract price of at least \$1,000 but less than \$60,000.

If a disclosure statement is required, the contractor must:

- Also give L&I's informational notice on construction liens to the owner.
- Keep a signed copy of the disclosure statement for three years.

Post a Notice at the Project Site (Prime Contractor Only)

If the project exceeds \$5,000, confirm the prime contractor:

- Posts either a notice or a building permit with the information required by statute in plain view on the project site.
- Provides the contents of the posted notice or building permit to all subcontractors, suppliers, and professional service providers.

Record a Notice of Furnishing (Professional Service Provider)

If the claimant provides professional services that are not visible on the property (for example, certain design or engineering work), record a notice of furnishing professional services (notice of furnishing) in the required form in the county where the property is located before construction begins.

Serve a Pre-Claim Notice (If Applicable)

If required, serve a notice of right to file lien claim (pre-claim notice) in the statutory form on both the owner (or reputed owner) and the prime contractor within:

- $\,\blacksquare\,$ 10 days after starting lienable work to construct a single-family residence.
- 60 days after starting lienable work on any other project.

Serve the pre-claim notice by either:

- Certified or registered mail.
- Personal delivery with proof of service (signed receipt or affidavit of service).

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Serve a Stop Notice on the Lender (Optional)

Consider serving a stop notice on a construction lender if both:

- The claimant is not paid within five days after the deadline in its contract.
- The project is not secured by a payment bond of at least 50% of the construction financing amount.

Serve the stop notice in the statutory form and manner within 35 days after the payment deadline. Verify the lender either:

- Withholds the delinquent amount from future financing draws.
- Obtains a payment bond from the prime contractor or loan borrower.

Prepare a Lien Claim

Prepare a notice of claim of lien (lien claim) in the statutory form. Ensure the lien claim is:

- Verified by the claimant or another person authorized to act on its behalf.
- Acknowledged in the same manner as other real property instruments.

When stating the lien amount:

- Provide the outstanding balance on the date the claimant submits the lien claim for recording (an itemized statement is not required).
- Allocate the amounts due for lienable work performed on multiple properties owned by the same person.
- Do not include anticipated fees and interest.

Record and Serve the Claim

Record the lien claim:

- In each county where the property is located.
- Within 90 days after the claimant finishes its lienable work.

Serve a copy on the owner (or reputed owner):

- Within 14 days after the claimant files the lien claim for recording.
- By either certified or registered mail or personal delivery.

Amend the Claim (If Necessary)

- Amend the lien claim within the 90-day filing period by recording and serving a new lien claim containing the amended information in the same manner as the original lien claim.
- Release or withdraw the original lien claim in whole or in part if the claimant has been paid for any lienable work.

Enforce the Lien Claim

Enforce the lien claim by conducting a foreclosure action in the same manner as the judicial foreclosure of a mortgage or deed of trust.

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Name the Necessary Parties

Name the following parties as defendants in the foreclosure complaint:

- The owner. Add the owner's spouse if the subject property is community property.
- The surety of a recorded lien release bond (if applicable).
- All junior or inferior lien or interest holders.
- Any person other than the owner or surety contractually obligated to pay the claimant for the lienable work (for example, a prime contractor).

Plead the Required Facts

Ensure the complaint:

- Describes the lien claim.
- States that the claimant satisfied all filing and service requirements.
- Requests foreclosure of the lien, an award of attorneys' fees and costs, and (if desired) a judgment against any party personally liable for payment.

If the claimant is a contractor, state that the claimant:

- Substantially complied with the statutory registration requirements.
- Provided a disclosure statement to the customer (if applicable). Attach a copy of the signed disclosure statement.

File and Serve the Complaint

- File the complaint in the superior court for the county where the property is located within eight calendar months after recording the lien claim.
- Serve the complaint on the owner within 90 days after filing.
- Do not record a notice of lis pendens after filing the action.
- Do not file a complaint if another foreclosure action is pending against the same property. Consider applying for joinder in the other action.

Obtain and Satisfy a Judgment

Obtain a judgment within two years after filing the foreclosure complaint to prevent the court from dismissing the action and canceling the lien. Verify that the judgment awards:

- Attorneys' fees.
- Recording, title search, and bond costs (if applicable).

Satisfy the judgment either:

- By selling the property under the execution procedures for a judicial foreclosure.
- Through application of a lien release bond recorded by the owner or another interested party. Confirm the bond meets the minimum statutory requirements.

Waive or Release the Lien (If Applicable)

- Promptly deliver a signed lien waiver or release (either complete or partial) after accepting payment to satisfy or reduce a lien claim.
- The claimant may inadvertently waive its lien by failing to meet the statutory notice and filing deadlines when pursuing a lien claim.

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