

# **Your Right to File a Construction Lien on a Commercial Project**

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In general, a contractor, subcontractor, or supplier is entitled to file a construction lien on a commercial project provided that the lien is filed within 90 days of the last date the entity provided materials or services with regard to the subject project. There are certain requirements, however, that must be met prior to being able to file a construction lien.

The first requirement is that there must be a signed contract pursuant to which the entity provided the materials or services. The next requirement is that the lien must be filed within the 90 days following the last date the entity provided materials or services with regard to the project. If the project involves a municipal project or residential construction, the requirements are different than discussed in this blog. That topic will be discussed in another blog. In a nut shell, however, if a lien is filed within 90 days of the last date that materials or services were provided pursuant to a contract which exists between the claimant and the contractor, or owner, then the lien can be filed. The following paragraph addresses

## **Who is Eligible to File a Construction Lien?**

The definition section of the New Jersey Lien Law provides that a “supplier” means any supplier of materials or equipment having a direct contract with the owner, contractor, or subcontractor. Thus, the cutoff for a supplier being able to file a lien claim on a project would be if they were a supplier to a sub-subcontractor on a project. In that scenario the supplier would not be permitted to file a lien. Essentially the same rule applies for a subcontractor. For the purposes of filing a lien claim, a “subcontractor” is defined as any contractor or subcontractor who has a direct contract with a contractor on a project. As such, a sub-subcontractor would be unable to file a construction lien on a project.

In addition to the definitions set forth above, it is also important that the lien be founded upon a valid contract as discussed above. Furthermore, if a lien is overstated intentionally or is unsupported by documents which evidence the amount which is due, the lien can likewise be deemed invalid. Under those circumstances, the lien claim is considered “willfully overstated”, and thus, the claimant may be subject to penalties as provided by the relevant lien law. This short blog, however, is designed solely to inform you as to generally who may file a construction lien on a commercial project.

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