

CONSTRUCTION LIEN RECOVERY FUND

Presently, the Fund has over 93,000 active members which include licensed residential builders, maintenance & alteration contractors, electrical contractors, plumbing contractors, mechanical contractors, building material suppliers and subcontractors.

The Construction Lien Recovery Fund is a special fund established by the Construction Lien Act (PA 497 of 1980, as amended) to provide a means of redress for subcontractors, suppliers and laborer in the event that all debts owed on a residential building or remodeling project are not paid by the licensed contractor. The Fund seeks to provide dual protection to both the subcontractor, supplier or laborer who did not receive payment from the contractor, and to the homeowner so that he or she does not have to pay twice for the same service.

FOR ADDITIONAL INFORMATION:

A Guide to the Homeowner Construction Lien Recovery Fund, containing detailed information on the lien process, or the Construction Lien Act (PA 497 of 1980, as amended) are available upon request by writing to:

Homeowner Construction Lien Recovery Fund
Department of Labor & Economic Growth
Bureau of Commercial Services
P.O. Box 30018
Lansing, MI 48909

Or calling (517) 241-9241.

You may also visit our website at:

<http://www.michigan.gov/constructionlienfund>

Homeowner Construction Lien Recovery Fund
Department of Labor & Economic Growth
Bureau of Commercial Services
P.O. Box 30018
Lansing, MI 48909

HOMEOWNER'S GUIDE TO THE MICHIGAN CONSTRUCTION LIEN RECOVERY FUND

State of Michigan
Department of
Labor & Economic Growth
Bureau of Commercial Services
P.O. Box 30018
Lansing, MI 48909

**...PROVIDING PROTECTION FOR THE
HOMEOWNER**

Homeowner Construction Lien Recovery Fund
(517) 241-9241

Commercial Enforcement Division
(517) 241-9202



www.michigan.gov/constructionlienfund

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This publication is issued for your information under the authority of Public Act 497 of 1980, as amended.

HOMEOWNER CONSTRUCTION LIEN RECOVERY FUND

Your new or remodeled home can turn out to be a dream or a nightmare. Prior to 1982, homeowners could actually end up paying twice for a remodeling job or, even the entire house. The Construction Lien Act (Public Act 497 of 1980, as amended) created the Homeowners Construction Lien Recovery Fund to protect homeowners from having to pay twice for the same labor or materials.

WHAT IS CONSTRUCTION LIEN?

A lien is a right that someone may have to claim interest in your property because of unpaid debts for home construction or improvements. Enforcement of this right may result in the sale of your home to pay off those debts.

WHY SHOULD YOU BE CONCERNED ABOUT THE CONSTRUCTION LIEN RECOVERY FUND?

If the contractor that you have already paid, fails to pay his or her subcontractors, suppliers, or laborers, the Construction Lien Recovery Fund protects you by paying those unpaid debts the second time, if you follow specific steps.

WHAT STEPS SHOULD YOU TAKE TO PROTECT YOURSELF?

Step 1: Always deal with a properly licensed contractor and be certain that all persons who are working on your property are licensed, if required by law. If you are unsure whether the contractor is licensed, or is required to be licensed, asks the contractor to show a current license. The state license must be displayed in the place of business and the contractor must carry a pocket card. If they cannot show a license, call the appropriate license agency at Department of Labor & Economic Growth (Builders 517-241-9254; Electrical 517-241-9320; Mechanical 517-241-9325 or Plumbing 517-241-9330), or visit the Department's License Information web site at: <http://www.michigan.gov/commerciallicensing>

WORKING WITH AN UNLICENSED CONTRACTOR IS DONE AT YOUR OWN RISK!!!!

Step 2: GET IT IN WRITING! Your contract must be in writing between you and the contractor. The contract should include the contractor's license number. All changes and additions to the agreement should be in writing.

Step 3: COMPLETE A NOTICE OF COMMENCEMENT. If you receive a written request for a Notice of Commencement, you must complete and return it to the contractor, subcontractor or supplier within ten (10) days of the receipt of the request. A blank copy of this form must be included with the request, along with a blank Notice of Furnishing form. Keep a copy of the notice of Commencement for your records and post a second copy at the site of the construction to notify everyone to whom and where the notices may be sent.

Step 4: LOOK FOR NOTICES OF FURNISHING. To protect their lien rights, all subcontractors, suppliers and laborers are required to send you a Notice of Furnishing when they work or, provide materials to your property. For a subcontractor or supplier these notices should come within twenty (20) days after the first date of labor or date of first delivery of material; for a laborer, within thirty (30) days after wages were due, but not paid. Keep any Notice of Furnishing sent to you.

Step 5: GET A SWORN STATEMENT BEFORE MAKING PAYMENT. A contractor is required by law to present you with a Sworn Statement whenever he or she requests payment from you, or if you request one. Whether you are making payment directly to the contractor, or have a third party (i.e., lending institution) make such payments, you should request a Sworn Statement from the contractor. You may also request a Sworn Statement from the subcontractor, or laborers. The Sworn Statement gives a detailed accounting of all people who are entitled to payment for services or materials.

Compare the Sworn Statement to the Notices of Furnishings you received to assure that you are being correctly billed. The law also permits you, the homeowner, to pay subcontractors, suppliers and laborers directly if you give your contractors at least five (5) business days notice.

Step 6: ASK FOR WAIVERS OF LIEN UPON PAYMENT. When making each payment on a contract, get a Waiver of Lien and keep it for your records. The waiver is like a "paid receipt" and assures that each subcontractor, supplier or laborer has been paid and will not be asking you to pay again.

IF YOU FOLLOW THESE STEPS, CAN A LIEN STILL BE FILED AGAINST MY PROPERTY?

Yes, but you will not have to pay twice for the labor or materials you have already paid for. Subcontractors, suppliers or laborers must file their Claims of Lien at your County Register of Deeds office within ninety (90) days from their last date of work, or delivery of materials. You must be served a true copy of the Claim of Lien either by personal service, or certified mail, within fifteen (15) days after it has been recorded. The subcontractor, supplier or laborer is required to initiate a lawsuit in Circuit Court within one (1) year of the date recording the lien. If you have fully paid the contractor according to a Sworn Statement, and their lien is found valid in court, they may be able to collect from the Construction Lien Recovery Fund. If you have not paid your contractor in full, the unpaid subcontractors, suppliers and laborers may recover directly from you.

Be sure that your attorney specifically checks that the Construction Lien Recovery Fund is named as a defendant party in your defense against the lien foreclosure action, so that you can benefit from this protection. Note: You should always consult with an attorney if any legal action is taken against you.

However, if a lawsuit is not filed within one (1) year, the claim of lien expires and becomes invalid.