



## LIEN FAQ

### ANSWERS TO YOUR QUESTIONS ABOUT THE SERVICING OF LIENS FROM PCM CORP.

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## **Why use Lien-Pro®?**

**This is why our clients continue to use our services:**

### **Expertise - Speed - Cost - Guarantee**

10+ years experience filing Builders' and Construction Liens, we know how to get your lien filed quickly and cost effectively. We guarantee it. Typical liens can be filed the same day, allowing you to negotiate with your customers to the 11th hour. Your lien will be filed correctly and on time, or its free. That's our guarantee. Lien-Pro® has access to a wide range of sources and resources to ensure your lien is filed correctly.

### **What is the difference between filing a lien through Lien-Pro® vs. A Law Firm vs. Filing Myself?**

The main differences are cost and expertise. Lien-Pro®'s lien fees can be 40% + less than a lawyer's fee to do the same work. Lien-Pro®'s staff is knowledgeable in the areas of filing and discharging Builder's Liens. We can provide similar services to a law firm at typically half the cost! The difference between filing a lien on your own and filing through Lien-Pro® is our team is extremely knowledgeable and we have the expertise to file liens. It is all we do! Lien-Pro® is up-to-date on all of the most recent lien legislation and we are experts in our field. Rather than completing the searches, preparing the documentation and filing the lien yourself - to have it later rejected due to a technicality, let Lien-Pro® take care of the hassle and have the lien filed right the first time. Lien-Pro® will handle all of the details while you go back to work and do the work you are best at.

Lien-Pro® offers flat fee billing- there are no hidden costs to filing your lien. A flat fee is charged, regardless of how difficult your lien is or how much you are owed unlike lawyers who typically charge you a percentage based on your claim and complexity. Average cost comparison: Filing with Lien-Pro® \$600 versus filing with a law firm \$3000-5000. The cost of filing your lien with Lien-Pro® can typically be added into your lien claim. This way you are able to recover your lien filing cost.

Lawyer: Getting your lawyer to do it means automatic and costly legal bills! Sure using your lawyer gives you a sense of security - "my lawyer is handling it" but that sense of security comes at a cost. It means more money spent to collect your unpaid account. Let's be honest, most lawyers don't jump up and get your lien filed right away. It takes time... and hourly billing... and it will eventually get done. Most

times that means giving them your lien well in advance of your lien deadline allowing you less time to negotiate with your client and hopefully arrange payment. Use your lawyer when you need them the most – suing and going to court! No need for them before.

Do it myself - filing on own: Do you have time and know what is required to get you lien filed? The lien process can be time consuming and complicated. Do you have the time to research, prepare and file your claim on time and correctly? Or do you have other jobs that need to get done, that will make you money!? Research, paperwork and processing, what a hassle! And what if a mistake on your lien claim and all of a sudden your customer or the property owner are upset and the incorrect lien is causing them pain. They are probably going to sue you. Now what? The seemingly tiny mistake on your lien claim now means \$\$\$\$ spent on lawyers. There is nothing more stressful then getting sued because of something you did by mistake.

### **Why lien now? Why buy Now?**

It's your right to lien – it is the law. If you have provided services or supplied materials to a project to help "improve" the property, you are eligible to file a lien. Builders' Lien Act (BLA) is in place to help protect you for work you've done; however, there are strict filing deadlines. To find out your lien filing deadline use our handy Lien filing date calculator

You MUST file before your lien deadline expires or else you will lose that opportunity

### **What does lien filing do? How does it help me?**

Addresses non-payment-delayed payment issue

Showstopper - If you file a lien at the proper time i.e. prior to sale, before project complete and holdback released, draws are still being made project financing/funds typically will not continue to be released to the project until your lien is dealt with and/or the sale or transfer of the property will not be completed until the lien is dealt with.

Accelerates legal if disputed – don't wait/bank on empty promises – address non-payment-disputes now

Good business only works in reality. A lien cuts through the "excuses" and helps you get paid or clearly decide your next course of action.

### **Why is filing a lien and using Lien-Pro® a problem solver?**

Lien-Pro® is a one stop shop

We help you before and after a lien is filed with our LIEN-PRO®tection services and post-lien collection & negotiation work

Access to professional negotiators. No Collection – No Fee

Network of preferred lawyers in every province and territory

### **What if my project does not have an address or I don't know the project address?**

If you don't have an address, this is not a show stopper – at Lien-Pro® we have access to a variety of resources that aid in property location. At Lien-Pro® we pride ourselves on being able to find your property, no matter what. We will find it. Whether it's a new development that does not yet have an address or if you have done work at a remote location. To date our success rate is 100% for property and land title location.

### **What if I do not know who owns the property?**

We are able to verify property ownership by pulling a current copy of the registered land title of the property. This will confirm the exact ownership of the property, which ensures the lien is filed against the correct property

### **What happens after the lien is filed?**

Several situations can occur after your lien is filed:

The lien is resolved – payment is made and your outstanding account is resolved. You can then discharge your lien. Lien-Pro® offers discharge service to aide with the lien removal process

The lien is disputed – if your customer disputes your lien i.e. receive a Notice to Prove lien or the lien funds are placed into court you must begin legal action to prove your lien claim.

The lien is ignored – if you do not hear from your customer after the lien is filed you must decide prior to the expiration of your initial lien claim – see timelines whether

you wish to commence legal action to prove your claim and make your lien permanent on title or pursue alternate collection efforts. If you want to move forward with perfecting your lien, let us know and we can assist with finding a qualified legal practitioner to assist you.

### **What is the best time to lien? Will my lien be effective?**

If you are thinking about filing a construction lien, consider the following two questions:

Does the project have ongoing financing?

Is the property going to be sold in the near future?

Your answers to these questions will help determine if you are a good candidate to file a construction lien. If you have answered YES to either of these questions, you are in a potentially powerful position if you file a construction lien. After you file, your construction lien will have influence over the project by either tying up the financing or delaying the sale/transfer of the property. This will result in a higher probability that your non-payment issue will be dealt with. Liens help get you to the negotiating table.

If you have answered NO to both questions, your construction lien may not have the desired effect and power over the situation that you are hoping for. If you file a construction lien it could potentially just sit there – there is no urgency to resolve your lien. The project stakeholders are not being directly impacted by your construction lien because the financing and/or the sale of the property is not directly affected.

Registering a construction lien is not for everyone, therefore; there are alternative collection tools you can consider. Third party collections or initiating legal action through either small claims or superior court depending on your situation may be a better option for you. Both collections and commencing legal action can be beneficial resources to utilize to aid in the recovery of your money.

If you are still uncertain about filing a construction lien, we are always available to consult with you. Simply give us a call to discuss your situation. We can help provide clarity and assist you with finding the most suitable option for you.

### **Does Lien-Pro® discharge my lien when paid?**

Lien-Pro® can assist with discharging your lien. We do not recommend removing your lien prior to receiving payment, because once you remove your lien, you cannot refile unless you are still within your lien deadline.

Once you are satisfied with your arrangements, payment received, funds are being held in trust with a lawyer, etc., Lien-Pro® can assist with the discharge. Complete our simple discharge request form & we will take care of the rest.

### **I need my lien off today! Does Lien-Pro® offer RUSH discharge services?**

RUSH discharges can be completed if your lien is holding up funds on a project. Simply inform a Lien-Pro® staff member you require a rush discharge, and we will ensure your discharge is submitted same day. RUSH processing times vary by province – max 3 days. Refer to our lien fee schedule for RUSH discharge costs.

### **Is it necessary to file a Pre-Lien Notice? Should I warn my customer prior to filing a lien?**

Pre-Lien notices are not required or mandatory in Canada. Some companies like to utilize Pre-Liens simply as a standard process As they are required in the US but it is not required.

A pre-lien notice is a letter sent to your customer and property owner on Lien-Pro® letterhead, letting the owner know that you were on site and provided services/goods.

The pre-lien notice isn't mandatory; however, it is a good idea to let the owners know you were there and involved in the project. It keeps everyone on their toes and shows that you are effectively managing your business and expect payment for your good work.

Lien-Pro® does offer Pre-Lien notices if you wish to send them as a part of your standard collections procedure – see Lien-Pro® Pre-Lien Information

### **Can I recover my costs paid to Lien-Pro®?**

Your ability to recover the cost of your lien varies. In some provinces you have to ability to add your lien costs to your claim, while others only allow you to potentially recover your lien costs once legal action has commenced.

If you file on your own, you cannot add the cost of your time to your lien claim; however, if Lien-Pro® files your lien, you can add our costs to the lien claim. Ideally you will be able to recover the full cost of filing your lien.

In the provinces where you can claim your lien costs – it is legally enforceable if you have a signed contract where your customer agrees to be responsible for all legal and collection costs for example, this may be a term of your credit app. If you do not have a signed agreement, you can claim costs; however these costs are not legally enforceable. You cannot force your customer to pay for your lien costs. If they pay the total value of your account, you must discharge and cannot require them to pay costs prior to removal.

### **What is the very latest I can submit my lien claim?**

Liens can be filed same day in most provinces. To ensure your lien is filed correctly, Lien-Pro® requires your lien claim to be submitted prior to 12pm local time 12pm of the province your lien is to be filed in. For example, if you are in BC and your project is in ON, we require your lien by 12pm EST, 9am PST.

NOTE: Provinces have different land title systems with varying capabilities and requirements. Same day lien filing is simply not possible in provinces other than BC, AB and ON.

To ensure your lien is filed in time, Lien-Pro® recommends filing your lien 5 days prior to the expiration of your lien deadline. This ensures the proper information/searches are conducted and that your lien registered prior to the expiry of your lien period. You must allow time for searches, document preparation and transit time.

### **How quickly will my lien be filed?**

In most cases a typical lien is processed within 24-48 hours. If you have a RUSH lien, your claim will be submitted in less than 24 hours depending on your lien deadline and the time in which we have received your claim. Liens are prioritized based on lien deadline and service request level Regular versus RUSH lien filing service. See What is the very latest I can submit my lien claim? for more information.

If a lien claim is missing critical information i.e. project address, legal description/GPS coordinates etc. Lien-Pro® cannot guarantee your lien will be

processed based on the above timelines. For example if you simply have a project name, like "The Horizon Project", it will take time to locate the exact location for a couple of reasons:

Project names do not necessarily directly correlate to the location where work or supplies have been provided

The project may consist of multiple titles of which we must determine which titles are correct

### **How do liens get removed?**

Liens can be removed in several ways. Depending on your situation it is recommended that you consult with a lawyer to ensure your claim is protected.

Mutual consent – both you and your customer are satisfied. You have come to a resolution i.e. your account has been paid and you require a discharge. Lien-Pro® can assist with the discharge.

Discharge in trust – both you and your customer are satisfied, and your funds are being held in trust until the lien is removed. This is common when your customer has their lawyer involved and they want to ensure the lien is removed. Once the lien is removed and a cleared copy of title is provided, the funds will be released to you. Lien-Pro® can assist with the preparation and submission of your discharge.

Court-Order – The opposing party most commonly customer, GC, or property owner want the lien off; however, they are not necessarily admitting responsibility for the lien. With a Consent Order, you can agree to have your lien funds paid into court in exchange for the lien removed. The funds paid into court should equal the lien claim amount + legal costs typically 10-15% of the value of the lien. A Court Order is a fast way to have the lien removed off the property as the lien is typically holding up project funds. This is an easier way for the opposing side to have the lien removed rather than removal via Application. If you receive a Consent Order, it is recommended you have your lawyer review the documentation prior to signing.

Application – Similar to a Consent Order; however, your consent is not required. The opposing side most commonly customer, GC, or property owner can remove your lien by filing an Application to the courts. For an application to be granted, the full value of the lien plus legal costs typically 10-15% of the value of the lien are required to be paid into court in exchange for the removal of the lien. Once the



application is granted, it is generally in your best interest to begin legal action to claim the funds being held. It is recommended to seek the advice of your lawyer.

### **Can I file a lien on multiple properties?**

If you have done work on multiple properties or units for the same customer, you may be eligible to file a multi-lien. You file a multi-lien against all properties you have done work on if your customer is the same for each property and all work you have provided is under the same contract. Multi liens are most common on new condo development and multi-unit commercial developments. It is recommended to only lien multiple units if the units are unsold in most cases the properties are still owned by the developer.

### **What is a lien or a caveat?**

A lien or a caveat is a tool used to secure your financial interest against real estate, leasehold, or a vehicle for the work and/or supplies provided to maintain or improve the asset. For example:

Builder's or construction liens are used on real estate properties or oil and gas leases for unpaid labour, services, and/or materials provided

Mechanics' or Garagekeepers' liens are used on motor vehicles for unpaid materials and/or labour

Caveats are used against a condominium title for unpaid condominium fees

### **How long do I have to file my lien or caveat?**

A Builders' lien, also known as a construction or Mechanics' lien must be filed within very specific deadlines. To check your deadline – consult with our Lien filing date calculator for more information. Certain circumstances may extend your lien deadline, so we recommend consulting with a qualified legal professional for their expert opinion.

A Repairers' or Garagekeepers' lien generally must be filed within 21 days of the release of the motor vehicle to your customer. Lien-Pro® does not provide Repairers' or Garagekeepers' lien services – please contact your local registry for assistance.

A caveat for unpaid condominium fees or unpaid home owner association fees may be filed at any time while the owner holds title to the condominium unit.

### **After I submit a lien or caveat application to Lien-Pro®, what happens?**

The staff at Lien-Pro® will call you to confirm receipt of your request and clarify the details of your claim. They will then file the lien or caveat on your behalf as well as a copy of your invoice and credit card receipt. Once the registration of your lien or caveat is completed, a copy is sent to you as verification. Your customer, as well as the property owner, will receive a copy of the land title showing that your lien or caveat has been placed.

### **How long does it take to get paid once I file a lien?**

It has been our experience that lien claimants usually receive immediate payment about 50% of the time. The remaining 50% generally end up in litigation due to various disputes. Lien-Pro® recommends that if you have not entered into serious negotiations with your customer within 30 days of the lien filing date, you should retain a qualified legal professional to protect your lien rights. Filing a lien does not guarantee you will be paid; however, your non-payment issue will be address. In some cases, there are larger issues preventing you from being paid; therefore, this will result in your need for legal action. Legal action is not preventable with the registration of a lien.

### **What are the benefits of filing a lien?**

Placing a lien has several benefits. One of the major benefits to placing a lien is its ability to delay the release of funds to a project. For example, if you place a lien against a property, the general contractor will not be able to receive funds from the bank until the lien is removed. The presence of a lien on the title is a red flag to a bank. The bank will not want to release funds to a project that is having issues with its stakeholders. The inability to receive additional funds is a major factor that often helps you receive your payment.

A second benefit to filing a lien is the ability to prevent the sale/remortgaging/transfer of a property. For example, say you provided work to a newly built home in a growing development and have not been paid; if you file a lien the new house will not be able to be sold until your lien is removed. A new home buyer is not going to want to buy a house with a lien on it. The presence of a lien and its ability to hold up the sale of a property is a major benefit to you. You can hold up the sale until you have received your money.

A third benefit to filing a lien is your ability to become a registered interest holder. For example, if you provided work for a company that later goes bankrupt or goes into receivership, you can place a lien and become a registered interest holder. As an interest holder you establish your place and shows your involvement in a project. This will help identify you as an owed party during bankruptcy or receivership proceedings.

### **What information is required to file a lien?**

The information required to file a lien is information that should be available on any one of your invoices. It is very straight forward. Lien-Pro®'s lien application forms are very straight forward and easy to use. Basically, all we want to know are the four W's and How:

Who - Who are you and who owes you the money? Do you know who owns the property? If you don't know who the property owner is, we can find it for you.

What - What work did you provide?

When - When were you last on site providing services/materials?

Where - Where is the property located legal land description or civic address? If you do not know the legal land description, don't worry! We can find it for you.

How - How much are you owed?

If you are ever confused or have a question about our forms, feel free to contact us. We are always willing to help!

### **What if I am past my lien deadline? What can I do?**

If you are past your lien deadline there are several options available:

1. Collection agency - place your account with collections and let qualified debt collectors recover your money. If your customer is located in Canada, we recommend using Priority Credit Management Corp. If your customer is located in the United States, use Account Adjustment Bureau for all of your debt collection needs.
2. Small Claims court - in most provinces you can go to small claims court if your claim is under the small claims limit of your province. In small claims court you can represent yourself and avoid high legal fees. Each province's small claims rules vary

so if you decide to make a claim, learn more on the province's small claims website i.e. Service Alberta.

3. Begin legal action - if you are not eligible for small claims court or simply want to sue your customer you can begin legal action with the assistance of a lawyer.

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## **MORE QUESTIONS?**

### **Contact Us!**

#### **General Contact**

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