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CONSTRUCTION E-BRIEF

Recent Changes in Wyoming Lien Laws

Lien laws vary from state to state, and are subject to change by the respective state legislature. As a result, contractors must know the lien laws of the state in which they are performing work. Wyoming's lien laws are particularly unique, especially after recent changes that went into effect on July 1, 2011.

Preliminary Notice of Lien Rights

One of the most drastic changes to Wyoming's lien laws concerns the requirement that potential lien claimants provide a preliminary notice of right to claim a lien in the event of non-payment. For subcontractors and suppliers, this notice must also be sent to the party with whom they contracted and must be provided **within 30 days** after providing materials or services to the project. Contractors are required to provide the owner with the written notice **prior to receiving any payment, including advances**. Under the new law, there are no provisions excusing compliance with the preliminary notice. As a result, persons entering into construction contracts in Wyoming should provide notice of the right to assert a lien prior to ever starting work on a project.

Pre-lien Notice

In addition to providing a notice of lien rights, a lien claimant must provide notice of its intention to file a lien to the project owner prior to filing a lien. The time to send a pre-lien notice has **increased to 20 days prior to filing a lien statement**. The practical effect of lengthening the time period for giving

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the pre-lien notice is that the lien claimant must send the notice far enough in advance that there is still time remaining to file the lien.

The Lien Statement

The recent changes give lien claimants an additional 30 days to file lien statements. Now, a contractor will be required to file his lien statement within **150 days** and a subcontractor or materialman must file his lien within **120 days of the earlier of (a) the last day work was performed or materials were furnished under contract or (b) the date of substantial completion of the project on which work was performed or materials were furnished under contract.** In addition, an owner can now file a notice of substantial completion, which, if served on the lien claimants, has the effect of starting the time running for the filing of a lien.

Rules Before You Sign

This issue's rule – know your lien laws.

Although you may never perform work in Wyoming, the lesson to be learned is to never assume that you know the requirements for filing a valid lien. The best practice is to review those requirements prior to beginning work on a project, especially when you are working in a new jurisdiction. Failure to know and follow the rules (like Wyoming's preliminary notice of lien rights) can result in the loss of lien rights before you even know that there is a problem with payment.

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