

CONSTRUCTION BLOG

Contractor - Know Thyself

AUTHOR: CARL LOTHMAN

It is good to occasionally to review our basic business processes. For our construction clients, one of these processes to involve in a periodic review and renewed staff training pertaining to preparation and monitoring of construction contracts. More specifically, it involves an awareness of a company's status as a specific type of contractor for purposes of qualifying to enforce Mechanics Liens and other payment remedies.

In Missouri and Illinois, contractors generally will be either **original (general) contractors** or **subcontractors/suppliers**. Each category involves specific notice, consent, and contract terms in order to qualify to file a Mechanic's Lien against private property, for which the requirements can vary, depending on whether the project property is commercial or residential.

The basic requirements generally can be summarized as follows:

Missouri (RSMo)

Commercial Properties Residential Properties

(Owner Occupied)

Original Contractor Notice to Owner (in contract)

(429.012)

Notice to Owner (in contract)

(429.012)

Consent of Owner (in contract)

(429.013)

Subcontractor/Supplier Ten Day Notice to Owner

(429.100)

Consent of Owner

(429.013)

Ten Day Notice to Owner

(429.100)

Illinois

Commercial Properties Residential Properties

(Owner Occupied)

Original Contractor 90 Day Notice to Owner

(770 ILCS 60/24)

90 Day Notice to Owner

(770 ILCS 60/24)

Subcontractor/Supplier 90 Day Notice to Owner

(770 ILCS 60/24)

60 Day Notice to Owner

(from Start of Work)

(770 ILCS 60/5)

(770 ILCS 60/21)

90 Day Notice to Owner

(770 ILCS 60/24)

If your company properly identifies its contractor status from the beginning in this initial process, the required terms can properly be included as necessary in the contract documents; necessary consents of the owner can be secured; and the subsequent required notices and deadlines which need to be met in order to file a Mechanic's Lien can be calendared, all as part of a routine process for identifying and satisfying all of the necessary prerequisites for a successful Mechanic's Lien.

Note that Mechanic's Liens generally cannot be filed against public property; different steps and requirements are necessary to preserve payment remedies on public projects. The Sandberg Phoenix Construction Industry Team can help identify how to make your internal processes more effective in protecting your company's payment remedies.