

## **BUILDERS' LIEN\***

Builders' Liens are regulated under the *Builders' Lien Act*. Builders' liens were originally designed to provide a simple and inexpensive method for a person to collect money due to him for work done to or material supplied to a building site. What is referred to as a builders' lien in Alberta is commonly referred to as a "mechanics' lien" in other jurisdictions.

**NOTE:** Documents submitted for registration must be accompanied by an electronic on-line Document Registration Request (DRR) form. To create a DRR, logon to SPIN 2, [www.spin.gov.ab.ca](http://www.spin.gov.ab.ca), click the DRR button on the SPIN 2 Menu Bar then select Create DRR, see Create DRR Help files for additional information.

### **Complete the Statement of Lien Form A:**

*What information you need:*

- Section 1: The full name of the lienholder (can be person, corporation, partnership or tradename)
- Section 1: The full address of the lienholder including municipality and postal code.
- Section 2: The full name of the owner of the property. If not known, enter "Unknown"
- Section 2: The full address of the owner of the property (if known) including municipality and postal code, if known.
- Section 3: The full \*\*legal land description, title number or linc number of the property where the work or materials were provided
- Section 4: Provide a short description of the work done or materials supplied or that the lien is for wages owed
- Section 5: The full name of the person the work or materials were provided for
- Section 5: The full address of the person the work or materials were provided for
- Section 6: Check the box if the lien is for and oil or gas well
- Section 7: Check the box that applies - The date when the work was completed or the last materials were supplied **OR** that the work has not been completed and all materials have not been supplied
- Section 8: The amount you are claiming
- Section 9: The address for service of the lienholder. (must be an Alberta address)

*Affidavit verifying Claim Form B:*

- If you are the lienholder and you have signed the Form A, complete the Affidavit Verifying Claim by Lienholder
- OR**
- If you are the Agent on behalf of the Lienholder and you have signed the Form A, complete the Affidavit Verifying Claim by Other Than Lienholder.

### **Commissioners & Notary Public:**

Many Land Titles documents and forms require that they be commissioned or notarized. Here is some important information you should keep in mind.

*Commissioners for oaths by virtue of office or status:*

Under the Notaries and Commissioners Act the following persons are commissioners for oaths, empowered by virtue of their office or status to administer oaths and take and receive affidavits, affirmations and declarations in Alberta for use in Alberta:

#### **For oaths sworn in Alberta**

- a judge
- a lawyer and a student-at-law
- a political representative:
  - a member of the Legislative Assembly of Alberta
  - a member from Alberta of the House of Commons of Canada
  - a member of the Senate of Canada who at the time of appointment as a senator is a resident of Alberta
- a Metis settlement councillor and a municipal councillor
- a member of a board of trustees of a school district or division as defined in the School Act
- a person who holds a commission as an officer in the Canadian Forces and who is on full-time service, whether in Canada or outside Canada
- a police officer
- a notary public is also a commissioner for oaths

### **For oaths sworn outside Alberta for use in Alberta**

- a political representative
- a person who holds a commission as an officer in the Canadian Forces and who is on full-time service, whether in Canada or outside Canada
- a commissioner for oaths by virtue of an office or status referred to above who actually resides in, or who provides his or her services as a commissioner for oaths in, the part of the City of Lloydminster that is located in Saskatchewan

#### *Other Commissioners for Oaths:*

- Most Authorized Registry Agent Offices have a commissioner for Oaths available
- Many banks or other organizations may have a commissioner available

#### What information the commissioner must include:

- A commissioner for Oaths must write or stamp below their signature, on every affidavit or statutory declaration or other document made before them one of the following phrases (dependant of their appointment):
  - A commissioner for Oaths in and for Alberta, being a [enter office or status]
  - A commissioner for Oaths in and for Alberta. My commission expires [date]
  - A commissioner for Oaths in and for Alberta, being a [rank] in the Canadian Armed Forces.
  - Assistant Deputy Registrar, Section 9 *Land Titles Act*
  - Deputy Registrar, Section 9 *Land Titles Act*
  - Registrar, Section 9 *Land Titles Act*

#### What information a notary public must include:

- The notary must always affix their notary seal
- The seal must include:
  - their name
  - the words NOTARY PUBLIC and PROVINCE of ALBERTA

#### **Important dates to remember:**

1. The lien **MUST** be filed at Land Titles within the following calendar (not business) days;
  - a. 45 days for a regular lien, **OR**
  - b. 90 days for an oil and gas lienFrom the date the work was completed or the last materials supplied.
2. Your lien is only valid for 180 calendar days from the date it is registered on the land title
3. If you want your lien to last longer, you must file a statement of claim at the Court of King's Bench and obtain a Certificate of Lis Pendens (CLP) from the clerk of the court and file it at Land Titles.

<p><b>If you do not file a CLP before the 180 days, your lien will expire and <u>CANNOT</u> be filed on the land title again.</b></p>
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#### **Other information:**

- Someone else can file the lien as your Agent if they have all of the required information
- If your lien is settled before the 180 day period, you should cancel the lien
- If an owner or other person affected by the lien wants to challenge the lien and have it removed prior to the 180 days, they may file a Statutory Declaration Regarding Lapsing a Builders' Lien. This process will shorten the time you have to file a CLP with land titles from 180 days to 30 days. If you do not file a CLP within 30 days, your lien can be lapsed; in addition there is usually a 7 day mailing period that is observed.

#### **Cancelling a lien:**

- Use Cancellation of Builders' Lien Form
- You or your agent (if someone else filed your lien for you) may cancel your lien
- You or your agent must have a witness to your signature.
- See additional information sheets:
  - Lapsing a Builders' Lien Information Sheet

### **More information**

Detailed information regarding land titles filing requirements and forms can be found on our website:

- **Main webpage**  
<http://www.servicealberta.ca/housing-property-utilities.cfm>
- **Builders' lien policy**  
Policy: <http://www.servicealberta.ca/pdf/ltmanual/BUL-1.pdf>
- **Builders' Lien forms**  
<http://www.servicealberta.ca/land-titles-procedures-manual.cfm> (Appendices)
- **Builders' Lien Act**  
[http://www.qp.alberta.ca/570.cfm?frm\\_isbn=9780779766093&search\\_by=link](http://www.qp.alberta.ca/570.cfm?frm_isbn=9780779766093&search_by=link)
- **Fees**  
[http://www.servicealberta.ca/pdf/ltmanual/Land\\_Titles\\_Common\\_Documents\\_Fee\\_Schedule.pdf](http://www.servicealberta.ca/pdf/ltmanual/Land_Titles_Common_Documents_Fee_Schedule.pdf)

### **\*\*Legal Descriptions**

Ways to find your legal description;

- from a previous copy of title
- most tax assessment notices have it
- some taxation municipalities may be able to provide it
- using the Land Titles SPIN 2 system search

Some legal descriptions are complicated and reference only portions of land. In these cases, you must be able to provide the full legal description as the Land Titles staff will not be able to determine the correct property. It is the registrant's responsibility to ensure they have the full and accurate legal description.

### **Registration Fees:**

Builders' Lien	\$15.00
Extra title(s) affected	\$5.00 per title

Please enclose a cheque or money order payable to the **Government of Alberta**. The completed affidavit, certificate(s) and appropriate fees can be mailed to either address:

Land Titles Office Box 7575 Calgary AB T2P 2R4	or	Land Titles Office Box 2380 Edmonton AB T5J 2T3
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If you have any further questions, please email or call our office:

Alberta Government Services Bldg. 2 <sup>nd</sup> Floor, 710-4 <sup>th</sup> Avenue SW Calgary AB T2P 0K3 (403) 297-6511 <a href="mailto:ltos@gov.ab.ca">ltos@gov.ab.ca</a>	or	John E. Brownlee Building 10365-97 <sup>th</sup> Street Edmonton AB T5J 3W7 (780) 427-2742 <a href="mailto:lto@gov.ab.ca">lto@gov.ab.ca</a>
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\* The above information is only a guideline and is not intended as an exhaustive listing.

Lienholder Address
claims a Lien under the Builders' Lien Act in the fee simple estate OR (specify if some other type of estate or interest applies) _____ Name Address
In the following land:
The Lien is claimed in respect of the following work or materials:
which work or materials were or are to be provided for: Name of Person or Corporation: Address
<input type="checkbox"/> This lien is in respect of an improvement to an oil or gas well, or to an oil or gas well site, for which the lien may be registered in the Land Titles Office not later than 90 days from the last day that the work was completed or the materials were last furnished.
<input type="checkbox"/> a) The work was completed or the materials were last furnished: on _____  - OR - <input type="checkbox"/> b) The work is <u>not</u> yet completed or all the materials have <u>not</u> yet been furnished.
The sum claimed as due or to become due is \$ _____
The address for service of the Lienholder in the Province of Alberta is

this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(Signature of Lienholder or Agent)  
at \_\_\_\_\_, Alberta.

I, \_\_\_\_\_, \_\_\_\_\_,  
of \_\_\_\_\_, Alberta  
named in the above (or annexed) statement make oath and say that the said claim is  
true.

Sworn before me at \_\_\_\_\_, Alberta

on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_  
*(Signature of Applicant)*

\_\_\_\_\_  
*(Print or Stamp Name of Commissioner)*      *(Expiry Date of Commission or Office)*

- OR -

I, \_\_\_\_\_, \_\_\_\_\_,  
of \_\_\_\_\_, Alberta  
make oath and say:

1. That I am the agent (or assignee) of  
  
named in the above (or annexed) statement and have full knowledge of the facts set forth in  
the above (or annexed) statement.

- OR -

I am informed by \_\_\_\_\_  
and believe that the facts are as set forth in the above (or annexed) statement.

2. That the said claim is true (or when deponent has been informed, that I believe  
that the said claim is true).

Sworn before me at \_\_\_\_\_, Alberta

on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_  
*(Signature of Applicant)*

\_\_\_\_\_  
*(Print or Stamp Name of Commissioner)*      *(Expiry Date of Commission or Office)*

This information is being collected for the purposes of land titles records in accordance with the Builders' Lien Act and the Land Titles Act. Questions about the collection of this information can be directed to the Freedom of Information and Protection of Privacy Coordinator for Alberta Registries, Research and Program Support, Box 3140, Edmonton, Alberta T5J 2G7, (780) 427-2742.