

Pre-Lien Notice Requirements for Lower-Tiered Subcontractors and Suppliers

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Lower-tiered subcontractors—that is, companies that furnish labor or materials to a subcontractor (rather than to the general contractor or owner)—have specific notice requirements under Iowa law that must be satisfied to preserve their rights to later file a mechanic’s lien (on private projects) or a Chapter 573 Claim against the owner’s retainage (on public projects). If these requirements are not met, lower-tiered subcontractors forfeit their lien and claim rights. Below is a summary of Iowa law as it relates to lower-tiered subcontractors.

GENERAL INFORMATION:

- **Private Projects:** Mechanic’s liens are utilized on private projects. The State of Iowa has the Mechanic’s Notice and Lien Registry (“MNLN”), an online system for filing pre-lien notices and mechanic’s liens, located at: <https://sos.iowa.gov/mnlr/index.aspx>.
- **Public Projects:** Mechanic’s liens cannot be utilized on public projects. Instead, claimants utilize a lien-like tool commonly referred to as a “Chapter 573 Claim.” Claims under Iowa Code Chapter 573 are claims/liens against the retainage held by the public owner and payment bond.

TIMING GUIDELINES REGARDING THE FILING OF LIENS AND CLAIMS:

- **Private Projects:** Mechanic’s liens should be filed on the MNLN within 90 days of the last day materials or services were furnished. That said, if a mechanic’s lien is not filed within 90 days, it may still be valid, however, it is only enforceable to the extent of any balance due from the owner to the general contractor at the time of service of a notice of a subcontractor’s post 90-day lien.
- **Public Projects:** Chapter 573 Claims should be submitted prior to final completion and acceptance of the project, but should otherwise be submitted as soon as a subcontractor has serious concerns regarding unpaid and overdue amounts on a public project.

COMMERCIAL PROJECTS: PRE-LIEN NOTICES FOR LOWER-TIERED SUBCONTRACTORS:

- **Rule for Lower-Tiered Subcontractors:** On commercial projects (private and public), Iowa law requires lower-tiered subcontractors to timely send out a pre-lien notice to the general contractor. If this requirement is not met in a timely matter, all lien/claim rights are lost.

There is no statutory required form or format for the notice, but per statute, the sub-subcontractor must (1) notify the general contractor in writing with a one-time notice containing the name, mailing address, and telephone number of the sub-subcontractor, and the name of the subcontractor to whom the labor or materials were furnished, and (2) send such notice within 30 days of first furnishing labor or materials. The notice must be sent to the general contractor and is not filed on the MNLN. **An exemplar notice is on the next page.**

RESIDENTIAL PROJECTS: PRE-LIEN NOTICES FOR ALL SUBCONTRACTORS:

- **Rule for All Subcontractors:** For residential jobs, all subcontractors—higher and lower tiered subcontractors—are required to file a pre-lien notice called a Preliminary Notice, which must be filed on the MNLN as soon as the work or materials are first furnished, or otherwise as soon as practical. **The Preliminary Notice is an online fillable form that is located on the MNLN.**
- **Definition of Residential Construction:** Residential construction is defined as work on a: (1) one or two-family dwelling (i.e., houses and duplexes/twin homes), (2) residential condominiums, and (3) apartment complexes *developed under a horizontal property regime*, which arguably fall into the residential horizontal property regime category. Everything else is commercial construction.
- **Definition of a Subcontractor:** The lien-related statutory definition of a “General Contractor” is much different than how that term is used in an everyday sense. “General Contractor” under Iowa’s Lien Law can generally be thought of as a direct contractor, i.e., a contractor who works directly for the owner (unless the owner is an owner-builder). Everyone else is a subcontractor. As noted, all subcontractors are required to file a Preliminary Notice.

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NOTICE

Date: _____

Sent Via: US Mail and Certified Mail

To: _____ *(General contractor name)*
_____ *(General contractor address)*
_____ *(General contractor address)*

RE: **Notice from Sub-Subcontractor to General Contractor Per Iowa Code §§ 572.33 and 573.15**

To Whom It May Concern:

Pursuant to Iowa Code sections 572.33 and/or 573.15, the undersigned company, whose name, address, and telephone number are listed below, is writing to notify you, as the general/principal contractor, that the undersigned company is a subcontractor or supplier furnishing labor and/or materials to the below noted subcontractor on the below noted project.

Project Name: _____

Subcontractor Name: _____

All labor and materials furnished by the undersigned company to the above noted subcontractor for use on the project shall be covered by this notice. Thank you.

Sincerely,

On Behalf of the Undersigned Company:

_____ *(Sub-subcontractor name)*
_____ *(Sub-subcontractor address)*
_____ *(Sub-subcontractor address)*
_____ *(Sub-subcontractor telephone number)*