

Builders' Lien

Information Sheet

Builders' Liens are regulated under the *Builders' Lien Act*. Builders' liens were originally designed to provide a simple and inexpensive method for people to collect money due to them for work done 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.

A Builders' Lien will be applicable for contracts signed before August 29, 2022, and last less than two years. Builders' liens will also apply to contracts executed after August 29, 2022 but relate to a project that started prior to August 29, 2022. Any contracts executed after August 29, 2022, that do not relate to a previous contract must follow the Construction Lien rules.

NOTE: Documents submitted for registration must be accompanied by an electronic online Document Registration Request (DRR) form. To create a DRR, log on to SPIN 2 (www.spin.gov.ab.ca), click the DRR button on the SPIN 2 Menu Bar, then select Create DRR. 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 trade name)
- 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, 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 yet 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 councilor and a municipal councilor
- 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 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 (dependent 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:

- o their name; and
- o 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 lien

*From 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.

If you do not file a CLP before the 180 days, your lien will expire and CANNOT be filed on the land title again.

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 seven-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.

More information

Detailed information regarding Land Titles filing requirements and forms can be found on our website:

- **Main webpage**
 - o <https://www.alberta.ca/land-titles.aspx>
- **Builders' Lien policy**
 - o <http://www.servicealberta.ca/pdf/ltmanual/BUL-1.pdf>
- **Builders' Lien forms**
 - o <https://www.alberta.ca/land-titles-overview.aspx#liens>
- **Fees**
 - o http://www.servicealberta.ca/pdf/ltmanual/Land_Titles_Common_Documents_Fee_Schedule.pdf



****Legal Descriptions**

There are several 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

If you have any further questions, please call:

Alberta Government Services Bldg.
2nd Floor, 710-4th Avenue SW
Calgary AB T2P 0K3
403-297-6511
lto@gov.ab.ca

or

John E. Brownlee Building
10365-97th Street
Edmonton AB T5J 3W7
780-427-2742
lto@gov.ab.ca

* The information provided in this document is only a guideline and is not intended as an exhaustive listing.