

## **Construction Lien Foreclosure**

Most contractors know how to file a construction lien when they have not received payment for services or materials they have provided. But what happens next? Filing a construction lien against the real property is only half the battle. Now you must foreclose on that construction lien to enforce your lien rights.

Here are some quick reminders about the Michigan Construction Lien Act (“the Act”). The Act allows contractors, subcontractors, suppliers, or laborers, who provide an improvement to real property, to acquire a lien against that property in the event of non-payment of wages.<sup>1</sup> That lien will “attach” to the interest of the owner or the lessee that contracted for the improvement to be made.<sup>2</sup> The Act is comprised of numerous caveats and nuances. In general, some requirements include the following: (1) Providing sworn statements<sup>3</sup>; (2) Filing the construction lien within 90 days after the last labor or material was supplied to the real property<sup>4</sup>; and (3) Foreclosing on a construction lien within one year after it is filed<sup>5</sup>.

To foreclose on your construction lien you will need to file a lawsuit. However, before you file your lawsuit, you must serve a sworn statement on the owner or lessee of the real property<sup>6</sup>. The lawsuit will need to be filed in the circuit court in the county where the real property is located<sup>7</sup>. All persons with an interest in the real property need to be added to the lawsuit as defendants in order for them to protect their interest. Furthermore, you can also include in your complaint other causes of action you may have; e.g. breach of contract, unjust enrichment, etc. Before you attempt to foreclose on your construction lien it is a good idea to contact an attorney to assess your situation.

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<sup>1</sup> MCL 570.1101, et seq.

<sup>2</sup> MCL 570.1107

<sup>3</sup> MCL 570.1110(1)(a)

<sup>4</sup> MCL 570.1111(1)

<sup>5</sup> MCL 570.1117

<sup>6</sup> MCL 570.1110(9)

<sup>7</sup> MCL 570.1118

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