

<b>SUBCONTRACTOR'S MECHANICS LIEN CLAIM</b>
STATE OF ILLINOIS    ) ) ss COUNTY OF _____ )

(above space for recorder's use)

WHEREFORE, the Property Owner (identified below), owned the Subject Property (identified below) on the Date of Contract: \_\_\_\_\_;

WHEREFORE, on or about the Date of Contract, the Lien Claimant (identified below) made a contract in which the Lien Claimant undertook to make the following Improvements to the Subject Property:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Nature of agreement (check one):  Verbal  Written;

WHEREFORE, the Lien Claimant's agreement was with:

Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

who, on information and belief, was acting with authority of the Property Owner to make subcontracts for the improvement of the Subject Property;

WHEREFORE, the Lien Claimant last performed work to the Subject Property on the Date of Last Substantial Work, which was: \_\_\_\_\_;

WHEREFORE, the Lien Claimant: (select one)

- Fully performed its obligations under the contract
- Was excused from full performance for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, the contractor that hired Lien Claimant:

Agreed in the initial contract to pay: \$ \_\_\_\_\_

Requested additional work amounting to: \$ \_\_\_\_\_

TOTAL CHARGES: \$ \_\_\_\_\_

Is entitled to credits for payment amounting to: \$ \_\_\_\_\_

Is entitled to additional credits amounting to: \$ \_\_\_\_\_

TOTAL CREDITS: \$ \_\_\_\_\_

Leaving due, unpaid, and owing to the Lien Claimant:

LIEN CLAIM: \$ \_\_\_\_\_

NOW THEREFORE, The Lien Claimant hereby files notice and claim for lien against the Subject Property and the improvements thereupon, further against the monies due or to become due from the Property Owner as a consequence of the Improvements, and upon the materials provided, against the interests of the Property Owner, the Original Contractor, and any Other Interest Holders (identified below).

**The "Subject Property" is the following:**

Street Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

PIN: \_\_\_\_\_

The legal description should be attached to this Lien as Exhibit A.

\_\_\_\_\_  
This document comes with detailed instructions attached. Instructions, information about mechanics liens and updated mechanics lien forms are available for free on the Web at <http://www.lienmechanics.com>

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**The "Lien Claimant" is the following:**

Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

**The "Property Owner" is the following:**

Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

**The "Other Interest Holders" are the following:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and the spouse of any individual named herein, and all unknown and non-record claimants.

State of Illinois     )  
                                  ) ss  
County of            )

The undersigned Affiant, first being duly sworn upon oath deposes and says that (s)he has authority to sign on behalf of the Lien Claimant; that (s)he has read the foregoing Claim for Lien, that (s)he knows the contents thereof, and that all the statements therein contained are true.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

Name of Person Signing:

Title with Company:

Name of Company (if different):

Subscribed and sworn to before me this date: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

MAIL TO / PREPARED BY: \_\_\_\_\_

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# Illinois Mechanics Liens

*prevention before litigation*

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## License for Use of This Mechanics Lien Form:

By using this form, you agree to the terms of the license displayed on the Internet at <http://www.lienmechanics.com/copyrightlicense.html>. You should read the full text of those terms, and in the event you have any questions or concerns, consult an attorney familiar with agreements of that nature. There are many mechanics lien forms commercially available that do not require your agreement to this license. Should you desire to use a form free from the obligations stated in the license governing this form, you are free to use forms from another publisher.

## Which Form to Use:

The Subcontractor's Mechanics Lien form should be used when the expected progress of payments has been interrupted. It may only be used when the contractor that hired the lien claimant has breached the agreement in some fashion, such as non-payment at the time contractually required. Under the definitions of the Illinois Mechanics Lien Act, an "original contractor" is one whose agreement is directly with the owner, as opposed to a "subcontractor," whose agreement is with an "original contractor" or another "subcontractor." These definitions are technical and stated in the text of the Act, and are different from common trade usage. Ambiguities can arise, particularly when the agreement is with a tenant or construction manager/architect. Filing a lien without identifying the nature of the contract relationship can invalidate the lien, and in case of ambiguity, a custom-drafted lien (rather than a form) may be most effective for protecting the lien. A separate Original Contractor's Mechanics Lien form is provided to match the different requirements for that type of claim.

## General Cautions:

The Subcontractor's Mechanics Lien form has significant legal effects for all involved. It is likely to significantly affect the property owner's rights in the real property, but if used improperly can create new liabilities that the lien claimant may have to pay. This form also includes a statement, sworn under oath, that

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the recitations in the document are true. Falsehoods sworn under oath could result in the signer being charged with forgery or perjury, both of which are felonies that carry significant fines and prison sentences. Because specific information relating to your project has not been reviewed in preparing these general instructions, this document does not constitute legal advice. Consulting with an attorney before signing or accepting the attached form is strongly recommended.

Specific Information to be Completed:

1. Page one, top ("County of..."): Fill in the name of the county where the document will be signed and notarized. The state may be changed if signed out of Illinois; check with an attorney familiar with notarization in that state.
2. Page one, top ("Date of Contract"): Enter date that agreement was finalized. This can be tricky to determine if negotiations proceeded in an unstructured way, or if there were multiple documents that could be construed as being the contract. In cases of ambiguity, picking the wrong date could invalidate the lien, among other consequences.
3. Page one, top ("Improvements"): This is the description of the work. The space provided indicates the level of detail needed for most lien claims - neither overly specific nor overly vague. "Electrical work" is probably too vague, while listing every item is probably too much. "Full rewiring of master bath, including but not limited to removal and replacement of all wire, conduit, fixtures, outlets, and breakers" might be a good balance. Another option is to put "See attached Exhibit B" and attach the full contract and change orders, although this will affect the cost of recording the lien.
4. Page one, middle ("Nature of Agreement"): A lien is valid only if it is based on a contract that the law will recognize. Illinois courts have recognized verbal agreements as being sufficient to support a lien claim, so long as they include the other legal elements required for validity. Check one or the other option, taking care to consider whether there is ambiguity as to whether the agreement is verbal or written.
5. Page one, middle ("Agreement with"): This is the company with whom the lien claimant has its contract. Under certain circumstances, it may be desirable to recite the full column of contracts, in order to establish the authority of the contractor to make its contract with the lien claimant.

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6. Page two, top ("Date of Last Substantial Work"): This date defines some of the important time periods of which construction participants need to be aware, in particular the times in which a lien may be filed in order to be valid against the interests of the mortgage holders and subsequent purchasers, as well as against the owner. Courts are generally skeptical of subcontractors stretching this date by defining "substantial" broadly. Thus, care must be taken to choose a date upon which the work done was clearly substantial. Mere warranty work and minor punchlist items are generally insufficient. Dates of delivery are the dates used for materials suppliers, although as above, the delivery must be "substantial."
7. Page two, top ("Fully performed/Was excused"): A lien claim may not be based on a contract that the lien claimant breached. Therefore, any valid lien claim must state either that the contract has been fully performed, or state a reason that the law will recognize for excusing the subcontractor from continued performance. What constitutes a valid excuse can be technical and complex.
8. Page two, center ("Accounting"): This section provides for a detailed accounting of the project to eliminate ambiguities arising from imprecise descriptions of the monetary obligations. Changes or extras causing extra amounts to be owed may be entered on the second line, and any agreed back charges or credits for work not completed may be entered under "additional credits." The total lien claim should be the charges subtotal minus the credits subtotal. Deliberate overcharging is a felony.
9. Page two, bottom ("Subject Property"): Common street address including unit number if a condominium, plus city, street, and ZIP code, is written here.
10. Page two, bottom ("Subject Property"): PIN refers to the Permanent Index Number used by many counties in the State of Illinois to identify separate parcels of land. Caution with the PIN and legal description (below) is advisable, since this is sworn under oath. Ideally, this information will be provided by the owner on the affidavit of the owner to the subcontractor.
11. Page two, bottom ("Subject Property"): The legal description of the property to be included in a claim for lien. These are available from the county Recorder of Deeds, or through any title search company. Particular caution is urged with regard to condominium properties.

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12. Page three, top ("Lien Claimant"): The Lien Claimant is the one who has asserted a mechanics lien claim, which may be a corporation, a partnership, an individual, or otherwise. This form is intended only for those whose agreement is not directly with the Property Owner or agent.
13. Page three, top ("Property Owner"): This is the entity holding legal title to the property, and may be an individual, a corporation, an Illinois land trust, or other entity. Care must be taken to properly identify the true owner of the property in a legal sense, particularly when people whose connection to the property is as corporate officers or as the beneficiary of a land trust commonly describe themselves as "owners." Additionally, when the agreement is through an architect or construction manager, one may need to use the phrasing, "X as the authorized agent of Y," provided this is accurate.
14. Page three, center ("Other Interest Holders"): These include a long list of rights in land that may have been transferred away from the title holder, including in particular the general contractor, and any other mechanics lien claimants, and mortgage holders. Companies that perform title searches are trained to meet the needs of mortgage companies, not lien claimants. As such, title searchers often fail to adequately examine and report the contents of documents recorded against title, and thus are often ineffectual at identifying all interest holders. As a consequence, lien claimants and their attorneys are often better off performing their own title searches.
15. Page two, bottom ("Attestation"): Fill in the county where the document is being signed. See #1 above for out-of-state signing.
16. Page two, bottom ("Attestation"): THE SIGNATURE REPRESENTS UNDER OATH THAT EVERYTHING STATED IN THE DOCUMENT IS TRUE. The person signing must be an individual, regardless of whether the lien claimant is an individual or a corporation. This form should not be signed by an attorney, unless that attorney is prepared to be deposed on the truth of the statements, disclose in discovery the sources of information, and to be prosecuted for forgery if the statements prove to be false.
17. Page two, bottom ("Attestation"): Have the document properly dated and notarized by a notary authorized in the location of signing.
18. Page two, bottom ("Mail to"): The finished document is usually sent to the address of the lien claimant, or its attorney.
19. Be sure to check the website noted below for updated forms and other relevant information.

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