

Preliminary Notice Deadlines for Public Projects



- A statutory preliminary notice establishes your right to claim in the event of non-payment
- If serving a notice is not a statutory requirement, serve a non-statutory notice
- Be sure your notice includes thorough & accurate job information
- Notice deadlines are critical
- Make sure your notice meets all formatting requirements
- Play it safe and send all notices by certified mail with return receipt requested, or as otherwise dictated by statute

Serve Preliminary Notices

The first step to secure bond claim rights on a public project may be to serve a preliminary notice.

A preliminary notice is not a legal document and does not reflect negatively upon the creditworthiness of your customer or any party within the ladder of supply.

A preliminary notice goes by different names depending on the state in which it's served. Some alternative names include: notice to contractor, notice of furnishing and prelien notice.

Statutory Notice vs. Non-Statutory Notice

Statutory notices establish your right to proceed with a bond claim in the event of non-payment.

These notices are governed by state law and typically must be served upon the general contractor and/or project owner within the specified timeframe.

However, it's recommended you serve the notice upon *all* parties within the ladder of supply to increase transparency and prioritize your payment.

In states where a preliminary notice is required, failure to send a notice or meet the stated deadline can invalidate your right to make a claim against a payment bond on the project.

Currently, 19 states in the U.S. have provisions for a preliminary notice to be served prior to proceeding with a bond claim. Be sure to review the statutory requirements carefully.

Non-Statutory notices are not required by state law and are served upon all parties within the ladder of supply. This type of notice is strictly a precautionary measure intended to prompt timely payment. Failure to serve a non-statutory notice does not affect your bond claim rights.

Deadlines Matter

The deadline to serve your preliminary notice varies by state. In most cases, your notice must be served within a set timeframe from when labor and/or materials are first furnished on the project.

For example, a public project in the state of Ohio requires the preliminary notice to be served within 21 days from first furnishing, while a public project in Florida has a more lenient requirement of 45 days. Some states, such as Texas and Louisiana, require a preliminary notice to be sent for every month that payment is not received. These states require greater management of deadlines which can slightly complicate the process.

Format Properly

Just as preliminary notices vary in name, type and deadline, each state has its own specific formatting requirements.

Some states are particular about seemingly small details such as font size and bold/italic/underlined words or phrases. There have even been cases where companies lose their rights due to something as detailed as margin size.

Typically, preliminary notices must be sent by certified mail with return receipt requested or by registered mail. It's important to save a copy of the notice and receipt so that if/when you proceed with a bond claim, you can prove compliance with the statute.





Public Projects

A notice is required on public projects in the following states to protect any future rights to serve a bond claim. A notice must generally be served within the time frame listed below. Please refer to The National Lien Digest© state provisions page for complete information.

- **Alabama:** non-statutory notice recommended
- **Alaska:** non-statutory notice recommended
- **Arizona:** within 20 days from first furnishing
- **Arkansas:** non-statutory notice recommended
- **California:** within 20 days from first furnishing
- **Colorado:** non-statutory notice recommended
- **Connecticut:** non-statutory notice recommended
- **Delaware:** non-statutory notice recommended
- **District of Columbia:** non-statutory notice recommended
- **Florida:** within 45 days from first fabrication or first furnishing
- **Georgia:** within 30 days after first furnishing
- **Hawaii:** non-statutory notice recommended
- **Idaho:** non-statutory notice recommended
- **Illinois:** non-statutory notice recommended
- **Indiana:** non-statutory notice recommended
- **Iowa:** within 30 days after first furnishing
- **Kansas:** non-statutory notice recommended
- **Kentucky:** non-statutory notice recommended
- **Louisiana:** lessor's notice within 10 days after first furnishing; notice of non-payment within 75 days from last day of each month furnished
- **Maine:** non-statutory notice recommended
- **Maryland:** non-statutory notice recommended
- **Massachusetts:** within 20 days from receiving final written approval for specially fabricated materials
- **Michigan:** within 30 days from first furnishing
- **Minnesota:** non-statutory notice recommended
- **Mississippi:** non-statutory notice recommended
- **Missouri:** non-statutory notice recommended
- **Montana:** within 30 days after first furnishing
- **Nebraska:** non-statutory notice recommended
- **Nevada:** within 30 days after first furnishing
- **New Hampshire:** non-statutory notice recommended
- **New Jersey:** for bond claim, serve prior to furnishing; for lien on funds, serve within 20 days from first furnishing
- **New Mexico:** non-statutory notice recommended
- **New York:** non-statutory notice recommended
- **North Carolina:** within 75 days from first furnishing
- **North Dakota:** non-statutory notice recommended
- **Ohio:** within 21 days from first furnishing
- **Oklahoma:** non-statutory notice recommended
- **Oregon:** non-statutory notice recommended
- **Pennsylvania:** non-statutory notice recommended
- **Rhode Island:** non-statutory notice recommended
- **South Carolina:** as soon as possible
- **South Dakota:** non-statutory notice recommended
- **Tennessee:** non-statutory notice recommended
- **Texas:** Service Notice of Specially Fabricated materials: by 15th day of 2nd month following acceptance of purchase order; Serve Notice of Retainage: by 15th day of 2nd month following first furnishing; Serve Notice of Non-Payment: 15th day of 2nd month following each month of furnishing
- **Utah:** within 20 days from first furnishing
- **Vermont:** non-statutory notice recommended
- **Virginia:** non-statutory notice recommended
- **Washington:** for bond claim, serve within 10 days from first furnishing; for public improvement lien, serve within 60 days from last furnishing
- **West Virginia:** non-statutory notice recommended
- **Wisconsin:** within 60 days after first furnishing
- **Wyoming:** within 60 days from first furnishing





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This is designed to provide a quick comparison of the notice requirements by state and does not address all variables. It is provided with the understanding that the publisher is not engaged in rendering legal advice. Action required in perfecting a claim varies from state to state and from case to case. NCS recommends retaining an attorney for each case.

updated 2.9.2021