

Bond Claim & Suit Deadlines for Public Projects



- If there is a payment bond on the project, attempt to obtain a copy of the bond at the time of contract. Include a request for a copy of the payment bond within your preliminary notice
- Confirm the surety is on the Department of the Treasury's Listing of Approved Sureties
- Review the payment bond, along with statute, to ensure you are covered as a potential claimant
- Serve applicable preliminary notices in accordance with statute
- If you remain unpaid, serve a copy of the bond claim upon all parties
- Keep all project documentation in a central location (e.g. invoices, delivery tickets, statement of account etc.)
- Carefully comply with statute and properly serve a bond claim to recover your claim

What is a Payment Bond

Generally, public and federal construction projects require general contractors to obtain a payment bond. The payment bond is issued as assurance of payment to certain parties should the principal of the bond breach their construction contract.

Who is a Party to the Payment Bond

There are three primary parties tied to a payment bond:

- **Obligee:** The party protected by a bond, the one who requires the bond to be furnished.
- **Obligor aka Principal:** An entity that has an obligation to pay a debt/the party required to furnish a payment bond.
- **Surety:** One who agrees to answer for the debt or default of another, usually an insurance company that is compensated for the risk by charging a premium.

How to Know if a Payment Bond has been Issued

You may find it easiest to contact the project owner to confirm whether a payment bond was required and if one was required, ask to be provided with a copy. Make this request at the beginning of the project when everyone is happy -- don't wait until there are payment issues, because folks are less inclined to share.

What is a Bond Claim

A Bond Claim is a written notice that the claimant (e.g. subcontractor, supplier or materialman) looks to the recipient for payment.

Each state has its own statute requiring payment bonds on public projects and the Miller Act applies to payment bonds required on federal construction projects. Some statutes may require the general contractor obtain a payment bond on every construction project, and other statutes may only require a payment bond when the total value of the construction project exceeds a certain threshold.

Who Should Receive the Bond Claim

Based on state statute, typically the bond claim must be served upon the general contractor and the surety, however, it is recommended to serve a copy of the bond claim on all parties involved.

The more people that know you have not been paid, the more pressure these people will put on the appropriate party to encourage payment.

When Should You Serve the Bond Claim

Frequently, a bond claim notice must be served within 90 days from last furnishing materials or services (e.g. Arizona).

However, some state statutes, such as in Colorado, refer the claimant to the terms of the payment bond. (i.e. "Serve the bond claim notice in accordance with the terms and conditions of the payment bond.")

Non-Statutory Bonds, such as those obtained by a subcontractor, also look to the terms of the payment bond.

How to Serve the Bond Claim

Check the statutory requirements to be certain. Typically, bond claims can be served via certified mail and as a best practice, request the return receipt. In cases where you are close to the deadline, consider also serving the claim via overnight service or personal server.





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.

Keywords

- **Acceptance:** An official act where entry is made in government records that a public work under contract is completed and accepted
- **Bond Claim:** Written notice informing prime contractor or surety that claimant, e.g., subcontractor, supplier, or materialman, looks to them for payment
- **Completion:** Date of fulfillment of prime contract for work of improvement
- **First Furnishing:** Date on which claimant first provides materials or performs services on project
- **Last Furnishing:** Date on which claimant last substantially furnishes materials or performs services on project (Generally, punch list work, warranty, or remediation will not extend the last furnishing date)
- **Suit:** An action in a court of law to enforce a claim

State	Serve Bond Claim	File Suit to Enforce Claim
Alabama	at least 45 days prior to filing suit	within 1 year from the date of final settlement
Alaska	within 90 days from last furnishing	within 1 year from the final settlement of the contract
Arizona	within 90 days from last furnishing	within 1 year from last furnishing
Arkansas	see bond for terms, frequently within 90 days from last furnishing	within 6 months from the date final payment is made on the contract
California	within 15 days from notice of completion OR within 75 days from completion with no notice of completion	within 6 months from the period in which stop notices may be filed (30 days from recording of notice of completion or 90 days from completion if no notice of completion is filed)
Colorado	see bond for terms, frequently within 90 days from last furnishing	within 6 months from completion of the project
Connecticut	within 180 days from last furnishing	within 1 year from last furnishing
Delaware	see bond for terms, frequently within 90 days from last furnishing	within 1 year from completion of the project (If the payment bond provides no time requirements, within 3 years from last furnishing)
District of Columbia	within 90 days from last furnishing	within 1 year from last furnishing
Florida	within 90 days from last furnishing	within 1 year from last furnishing
Georgia	within 90 days from last furnishing	within 1 year from completion and acceptance of the project
Hawaii	within 90 days from last furnishing	within 1 year from last furnishing
Idaho	within 90 days from last furnishing	within 1 year from last furnishing (When contracting directly with the prime contractor: within 1 year from the date on which final payment, under the subcontract, became due)





State	Serve Bond Claim	File Suit to Enforce Claim
Illinois	within 180 days from last furnishing	within 1 year from last furnishing, but within 90 days from serving a public improvement lien
Indiana	within 60 days from last furnishing	as early as 60 days after final completion and acceptance of the project
Iowa	within 30 days from completion	within 60 days from completion and final acceptance of the project
Kansas	see bond for terms, frequently within 90 days from last furnishing	within 6 months from completion of the project
Kentucky	see bond for terms, frequently within 90 days from last furnishing	in accordance with the terms and conditions of the payment bond (frequently required within 1 year from last furnishing)
Louisiana	within 45 days after acceptance of project or notice of default	within 1 year from filing the sworn statement, or 1 year from acceptance of the project or a notice of default, whichever is earlier
Maine	within 90 days from last furnishing	within 1 year from last furnishing
Maryland	within 90 days from last furnishing	within 1 year from final acceptance of the project
Massachusetts	within 65 days from last furnishing	within 1 year from last furnishing
Michigan	within 90 days from last furnishing	within 1 year from the date on which final payment was made to the prime contractor State
Minnesota	within 120 days from last furnishing	within 1 year from last furnishing
Mississippi	within 90 days from last furnishing	within 1 year from last furnishing
Missouri	see bond for terms; frequently within 90 days from last furnishing	see bond for terms; frequently, within 1 year from last furnishing
Montana	within 90 days from completion and acceptance	see bond for terms; frequently, within 1 year from last furnishing
Nebraska	within 4 months from last furnishing	within 1 year from final settlement
Nevada	within 90 days from last furnishing	within 1 year from last furnishing
New Hampshire	within 90 days from completion and acceptance	within 1 year from filing statement of claim
New Jersey	within 1 year, less 90 days, from last furnishing	within 1 year from last furnishing
New Mexico	within 90 days from last furnishing	within 1 year from final settlement
New York	within 120 days from last furnishing	within 1 year from completion and acceptance of the project





State	Serve Bond Claim	File Suit to Enforce Claim
North Carolina	within 120 days from last furnishing	within 1 year from last furnishing, or within 1 year from the date of final settlement, whichever is later
North Dakota	within 90 days from last furnishing	within 1 year from completion and acceptance of the project
Ohio	after last furnishing and within 90 days from acceptance	within 1 year from acceptance of the project
Oklahoma	within 90 days from last furnishing	within 1 year from last furnishing
Oregon	within 180 days from last furnishing	within 2 years from last furnishing
Pennsylvania	within 90 days from last furnishing	within 1 year from last furnishing
Rhode Island	within 90 days from last furnishing	within 2 years from last furnishing, or within the terms provided in the payment bond, whichever is later
South Carolina	within 90 days from last furnishing	within 1 year from last furnishing
South Dakota	see bond for terms; frequently within 90 days from last furnishing	within 1 year from completion and final settlement
Tennessee	within 90 days from completion of project	within 6 months from last furnishing or the completion of the project
Texas	by the 15th day of the third month following each month of furnishing	within 1 year from serving the bond claim notice
Utah	recommended within 90 days from last furnishing	within 1 year from last furnishing
Vermont	see bond for terms; frequently within 90 days from last furnishing	in accordance with the terms and conditions of the payment bond (frequently required within 1 year from last furnishing)
Virginia	within 90 days from last furnishing	within 1 year from last furnishing
Washington	within 30 days from completion and acceptance	recommended within 4 months from filing the bond claim or 4 months from completion and acceptance of the project; or per the terms and conditions of the payment bond (frequently required within 1 year from last furnishing)
West Virginia	see bond for terms; frequently within 90 days from last furnishing	in accordance with the terms and conditions of the payment bond (frequently required within 1 year from last furnishing)
Wisconsin	recommended within 90 days from last furnishing	within 1 year after completion of contract work
Wyoming	recommended within 90 days from last furnishing	within 1 year after the date of first publication of notice of final payment of the contract





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