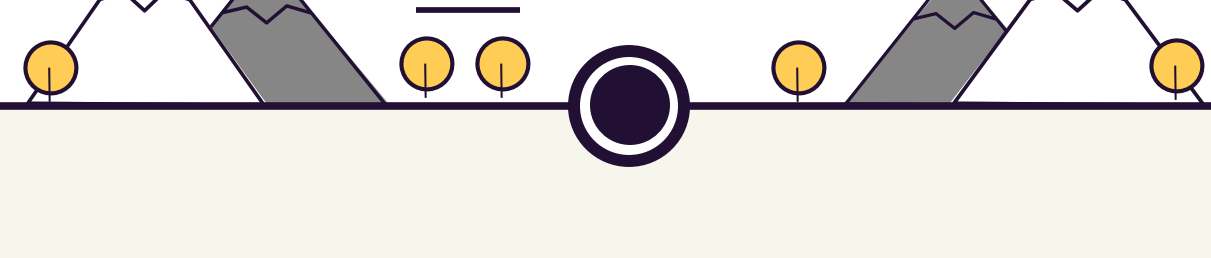




# 5 Things You Should Know when Securing Lien Rights in Arizona

If you are furnishing to a private project in Arizona, check out five things you should know to secure your right to payment.



- 1** The preliminary notice should be served within 20 days from first furnishing
- 2** You may need to amend your preliminary notice if the owner provides differing information and/or if your contract increases
- 3** The mechanic's lien deadline is based on project completion
- 4** Arizona is a full balance lien state
- 5** Lien claimants must proceed with foreclosure within 6 months from the date the lien was filed

## 1 | Preliminary 20 Day Notice

Arizona, like most states, requires potential lien claimants to serve a preliminary notice.

All those furnishing materials or services must serve the notice upon the owner, prime contractor, construction lender and your customer within 20 days from first furnishing.

The preliminary notice is required, even when you contract with the owner.



Did you miss the 20 day deadline? You can serve the notice late, however if/when you proceed with the mechanic's lien, the lien will only be effective for furnishings provided 20 days prior to serving the notice and for subsequent furnishings.

**ProTip | Make sure your service of the notice meets the parameters within Arizona's statute:**

33-992.01. F. The notice or notices required by this section may be given by mailing the notice by first class mail sent with a certificate of mailing, registered or certified mail, postage prepaid in all cases, addressed to the person to whom notice is to be given at the person's residence or business address. Service is complete at the time of the deposit of notice in the mail.

## 2 | You May Need to Amend Your Preliminary Notice

There are two common events that may warrant an amended preliminary notice.

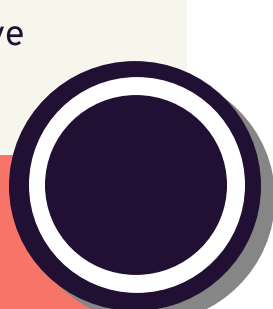
**1** If the owner receives a copy of your notice and discovers the information within the notice is incorrect, he has 10 days from receipt of your notice to provide you with the correct information.

Once you receive the corrected information, you then have 30 days to amend and resend your notice.

**2** If your contract amount increases. You may have the best estimator on the planet, but some projects (OK, perhaps most projects) will require more materials and/or services. In the event your contract amount increases by 20% or more, serve an amended preliminary notice.

Did You Know?

To maintain compliance with Arizona statute, your contract amount must appear on the preliminary notice.



## 3 | Arizona is Full Balance

There are full balance lien states and unpaid balance lien states.

Fortunately, Arizona is a full balance lien state.

This means the lien is enforceable for the full amount owed, regardless of payments made by the owner.

## 4 | File Your Mechanic's Lien

The Arizona mechanic's lien deadline is based upon the date of project completion.

Lien claimants must file the lien within 120 days from completion of the project, or within 60 days from the recording of a notice of completion.



As a best practice, serve all parties with a copy of the lien, but minimally, you will need to serve a copy of the lien upon the owner.

Frequently, the date of project completion is unknown to subcontractors and suppliers.

We recommend conservatively calculating your deadline based on your last furnishing date (i.e. as a best practice, file your lien within 90 days from last furnishing).

Wonder if the Notice of Completion has been filed? Run a query through NCS LienFinder!

## 5 | Suit to Enforce Lien

If you have filed a mechanic's lien, and have yet to enforce your lien, your next step would be to file suit to enforce your lien. According to Arizona's statute, claimants must proceed with lien enforcement within 6 months from the filing of the lien.



Arizona Statute | 33-998. Limitation of action to foreclose lien

A. A lien granted under the provisions of this article shall not continue for a longer period than six months after it is recorded, unless action is brought within that period to enforce the lien and a notice of pendency of action is recorded pursuant to section 12-1191 in the office of the county recorder in the county where the property is located. If a lien claimant is made a party defendant to an action brought by another lien claimant, the filing within such period of six months of an answer or cross-claim asserting the lien shall be deemed the commencement of an action within the meaning of this section.

## BONUS | Stop Notice

In addition to the filing of a mechanic's lien, unpaid parties may seek recovery through the service of a stop notice.

A stop notice can obligate the lender to withhold sufficient funds to cover unpaid amounts.

The stop notice should be served upon the owner and lender within 120 days from completion of the project, within 60 days from the recording of a notice of completion or within 30 days from written demand by the owner or lender.

Do you need to secure your rights for a project in Arizona? Do you have questions about mechanic's liens?

Contact NCS Credit today!



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This information is provided with the understanding that the publisher is not engaged in rendering legal advice. NCS recommends retaining an attorney for each case.