Assignment of Mechanic's Lien & Bond Claim Rights



It's true, mechanic's lien and bond claims may be assigned from one party to another. However, whether assignment rights are available will vary by state and circumstance.

What is an Assignment of Rights?



Assignment is the transfer of rights or interest from one party to another.

For example, if a subcontractor has mechanic's lien rights, it may opt to assign its mechanic's lien rights to a third party.



Two Primary Parties: Assignor & Assignee

The assignor is the original "owner" of the rights, or the party that is giving its rights to another.

The assignee is on the receiving end; the rights are given to or assigned to the assignee.

Are Rights Always Assignable?

• Whether the labor or material has already been

Not always! For instance, assignability may depend on:

- supplied to the project Whether the lien has already been perfected Whether an assignment of rights was properly executed

"Bonds are often considered private contracts and contracts are typically assignable.

What about bond claims!?

Furthermore, case law demonstrates that rights under the Federal Miller Act are assignable, and states

frequently look to the Miller Act statute when interpreting state bond claim laws, indicating there is a likelihood of assignability." - Jerry Bailey, Executive Sales and Education Services Manager

The assignment of mechanic's lien rights is a contractual process that, in most

The Assignment Process

and vary state-to-state; thus, it's important to seek proper legal advice before signing any document.

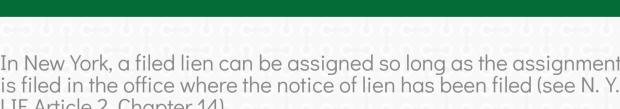
However, the details surrounding the assignment of lien rights are complex

cases, requires a written agreement between the assignor and the assignee.

In New York, a filed lien can be assigned so long as the assignment

LIE Article 2, Chapter 14).

Let's take a look at some state examples.



In Kansas, "All claims for liens and rights of action...shall be assignable so as to vest in the assignee all rights and remedies herein given..." (KSA 60-1104)



For lien claims in Wisconsin, rights can be assigned and notice may be served upon the owner of the property." (WI 779.04)



assigned by the lienor at any time before its discharge. The assignment may be recorded in the clerk's office." (FL 713.19)

assignee shall have the same power to enforce the construction lien..." (MI 570.1125)

CREDIT

Be aware, the variables affecting assignments of rights are complicated!

Please contact NCS Credit if we, or our nationwide network of attorneys, may be of assistance.

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