

TABLE OF CONTENTS

- Preparing and Filing a Lien** 1
 - A. Introduction: The Nature of a Lien** 1
 - B. The Advantages of a Lien** 5
 - C. Only One Set of Lien Laws** 9
 - D. Establishing Your Right to Lien** 13
 - 1. Deal with a Registered General Contractor 14
 - a. Telephone Labor and Industries 14
 - b. Go to the L & I website 15
 - 2. You Must be Registered 17
 - 3. Work Must be Ordered by the Owner 35
 - a. When Work is Ordered by a Tenant..... 35
 - b. When Extra Work is Ordered by the General Contractor without Knowledge or Approval From the Owner 40
 - c. When Work is Ordered by a Prospective Purchaser of the Property..... 42
 - 4. Special Consideration for Indian Land..... 43
 - 5. Maritime Liens 47
 - E. Preliminary Notices** 49
 - 1. Provide the Disclosure Statement to Customer 50.1
 - 2. Notice of Right to Claim Lien 51

a.	The Form Which Must be Used	53
b.	To Whom Do You Send the Notice	53
c.	How to Send Notice	55
d.	When to Send Notice	56
e.	Special Rules for Remodeling Projects	58
f.	Unclaimed Notices	59
g.	Consequences of Failure to Give Notice.....	61
h.	When Notice is Not Required.....	62
i.	Condominiums	63
j.	Owner’s Actual Knowledge not Enough.....	64
k.	Coercion.....	68
l.	Agency	69
3.	Special Notice Requirements for Architects/Engineers.....	71
F.	Claim of Lien	77
1.	The Form Which Must be Used.....	77
2.	Preparing the Lien	79
a.	Correctly completing the lien form.....	79
b.	Additional Information Required by County Recording Offices	83
c.	The cost of recording a Claim of Lien	85
d.	Obtaining a copy of the recorded lien	85
3.	Amending the Claim of Lien	86
a.	Ownership	86
b.	Party who orders work	86
c.	Property description	87
d.	Amount due.....	87
e.	Dates of performance.....	88
4.	Recording and Mailing the Claim of Lien.....	90
5.	Copy of Claim of Lien to the Owner.....	94
6.	When to Record the Claim of Lien.....	94.1
7.	Eight Month Life of Lien	98

8. Extending the 90 Days Within Which to Record the Claim of Lien	102
9. Separate Residential Units – Time for Filing	110
10. Recording a Single Lien Against Two or More Properties	113
11. The Work Must be Performed on Owner’s Property	114
12. Off-Site Fabrication Work	119
13. Calculating the Amount of Lienable Labor and Materials	121
14. Apportionment of Labor and Materials	127
15. When a Project is Temporarily Abandoned	131
16. Materialman to Materialman May Not Record a Lien	133
17. Claimant Completes Work under Contractor Directly with Owner	135
18. Liability for Recording Lien in Excessive Amount	139
19. Effect of General Contractor’s or Subcontractor’s Bankruptcy	142
20. Effect of Owner Filing Bankruptcy	144
a. If Owner Files Bankruptcy Before Lien is Recorded	144
b. If Owner Files Bankruptcy After Lien is Recorded	147
c. Can Bankruptcy Trustee Avoid Mechanic’s Lien in Bankruptcy	147
21. Removal of Improvements from Property	150
22. Release of Lien Rights	153
23. Removal of Frivolous Liens	161
24. Rights of Owner	168
25. Bonding Around a Lien	170
26. Rank and Payment of Lien	174
27. Non-Exclusivity of Lien Claim	178
28. Material Exempt from Attachment	180
29. Lien Binds Community Interest	181
30. Second Tier Materialmen and Subcontractors	182
31. Work Performed on Fixtures	183
32. Sale and Delivery on Open Account	186
33. Delivery of Materials Sufficient to Form Basis of Lien	188
34. Loss of Lien Rights	191
a. The Inadvertent Loss of Lien Rights	191

b. Loss by Operation of Contract	191
c. Loss by Execution of Check.....	192
d. Loss by Execution of Waiver.....	192
35. Subordination Agreements	194
36. Joint-Payee Checks.....	195
37. Liens for Construction Management.....	198
G. Foreclosure of the Lien	199
1. Introduction.....	199
2. Rules of Foreclosure.....	201
3. Priority of Lien and Application of Foreclosure Proceeds	207
4. Recovery of Attorneys' fees and Costs	209
5. Recovery of Interest	214
6. Homesteads.....	216
H. Notice to Lender	217
1. Introduction	217
2. Who are the Players and Pieces.....	219
a. Real Property Lender	219
b. Interim or Construction Financing	219
c. Draws	219
d. Potential Lien Claimant	219
3. Rules for Sending the Notice to Lender	221
4. Duties of Lender.....	224
5. Liabilities for Improper Notice	227

- Claims on State Public Works** 231
 - A. No Lien on Public Works Projects** 231
 - 1. Payment Bond 231
 - 2. Retainage Fund 231
 - B. Definition of “Public Work”** 233
 - C. Collecting Against the Prime Contractor’s Bond** 235
 - 1. Bond is Required by State Law..... 235
 - 2. Preliminary Ten Day Notice Requirement..... 237
 - 3. How to File a Claim Against the Bond 244
 - 4. Following up on Bond Claim 247
 - 5. Filing Suit Against the Payment Bond..... 256
 - a. Where Suit is Brought 256
 - b. Who Are Parties in Lawsuit 257
 - c. When Suit Must be Filed 257
 - d. Arbitration..... 258
 - 6. What You Can Collect..... 261
 - 7. Rank and Priority 262
 - D. Claims Against Prime Contractor’s Retainage** 263
 - 1. Retainage is 5%..... 263
 - 2. Claim of Department of Revenue and Labor and Industries..... 268
 - 3. Sixty Day Materialman’s Notice (Retainage Claim) 270
 - 4. Claim Against the Retainage 272
 - 5. Filing Lawsuit to Foreclose Your Retainage Claim 273
 - E. Amount of Recovery From Retainage** 275
 - F. Attorney Fees** 277
 - 1. RCW 39.08.030 and RCW 60.28.030 277
 - 2. Offers of Settlement 278
 - 3. RCW 60.28.030 280

4. Contract/Subcontract	281
G. Wrongful Withholding of Payment.....	283
H. Interest.....	285
I. Priorities of Claims Against Retainage.....	287
Federal Bond Claims.....	289
A. Introduction to the Miller Act.....	289
B. Definitions of Public Work.....	291
C. Persons Covered Under the Miller Act.....	293
1. Off-site Work: Architects and Engineers	295
D. Assignment of Rights.....	297
E. Preliminary Step to Perfecting a Claim (Miller Act).....	299
1. Multiple Contracts	300
2. Your Subcontractors Work May Extend the Deadline.....	301
3. The “Correction-or-Repair” vs. “Original Contract” Test.....	302
F. Time to Sue on Bond.....	303
G. Amounts Recoverable Under Miller Act.....	305
H. Waiver of Miller Act Rights.....	307
I. Interest.....	309
J. Attorney Fees.....	311
K. Priority of Claims.....	313

Contractor’s Registration Bond Claims	315
A. Bonding Requirements for Contractors	315
B. Who May File a Claim Against the Bond	319
C. How to File a Claim	321
1. Time Limits and Procedures for Filing a Claim	321
2. Attorney Fees and Costs	323
D. Priorities of Payment from the Bond	325
1. Claims Against the Bond.....	325
2. The Amount Paid from a Bond.....	328.1
E. Collecting from a Cash Security Deposit	329
F. Collecting from an Electrical Contractor’s Bond	331
1. Bonding Requirements for Electrical Contractors	331
2. Filing a Claim Against an Electrical Contractor’s Bond	333

APPENDICES

Notice to Customer (Disclosure Notice)	1
Disclosure Notice Cheat Sheet	1.1
Claim of Lien	2
Claim of Lien Cheat Sheet	2.1
Letter to Owner	2.2
Notice to Real Property Lender	3
Notice to Real Property Lender Cheat Sheet	3.1
Notice of Right to Claim Lien	4
Notice of Right to Claim Lien Cheat Sheet	4.1
Notice of Furnishing Professional Services	5
Notice of Furnishing Professional Services Cheat Sheet	5.1
Letter to Landlord/Tenant	6
Release of Lien	7
Conditional Waiver of Lien Rights	8
Unconditional Waiver of Lien Rights	9
Conditional Release of Lien	10
Notice to be Placed on Property	11
Set-aside Letter to Project Lender	12
The Complete Washington Lien Laws	13
Notice to Prime Contractor	14
Notice to Prime Contractor Cheat Sheet	14.1
Notice of Claim Against Contractor's Bond & Retainage Fund	15
Claim Against Bond & Retainage Cheat Sheet	15.1
Letter to Bonding Company	16
Release of Claim Against Contractor's Bond & Retainage Fund	17
Assignment of Lien Rights	18
Notice to Contractor (Federal)	19
Miller Act	20
Parties Protected/Unprotected by Miller Act Payment Bond	21
Letter to Federal Agency for Info	22