



# title and escrow essentials

## MECHANIC'S LIENS

A mechanic's lien isn't for a car-repair gone bad. It applies to a lien that's been placed on a property for contractor's fees, sub-contractor's fees, construction materials, or any other items that have been used to improve a property. When laborers and product suppliers don't get paid or dispute arises over amount paid, they can place a lien against the specific property. These liens are typically called **mechanic's liens**, but can also be called **workman liens** or **construction liens**. In our state, these liens have a lot of clout.

### Do any of the following apply to your transaction?

- Is your buyer closing on a new construction home or a home that's had a major remodel?
- If so, how do you know if all of the workers and vendors have been paid and won't file a lien?
- What happens if a lien is filed?

### Here's a potential timeline:

- ⇒ Let's say that Joe and Kathy Buyer are scheduled to close on their dream home from Bob Builder March 5.
- ⇒ Bob hires a Sally sub-contractor. Sally finishes work on March 1, just in time for closing.
- ⇒ The closing takes place as scheduled on March 5.
- ⇒ Turns out that Bob doesn't pay Sally for the work.
- ⇒ Sally has **90 days** from the date the work stops to file a lien. That's well after Joe and Kathy have settled into their dream home.

At this point the dream gets a little nightmarish because Sally can now file an action to get a judgment against the property, and then ultimately try and foreclose on the judgment. This is because **the lien would have priority over any loans that were recorded after the date of last work.**

Sally has **8 months** from the date the lien was filed **to file an action in superior court to enforce the lien.**



### As a broker, how can you help prevent the dream-to-nightmare scenario for your buyers?

- Ask the title company handling the transaction if they are getting information from the builder or contractors to verify payment.
- Builders almost always offer the Standard Policy, so your buyers might need to ask for the Homeowner's Additional Protection Endorsement or pay for the upgrade to ALTA Homeowner Policy to get coverage for mechanic's liens.

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If your clients have questions about their real estate holdings, please give us a call. We are happy to help!

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