

**SOUTH DAKOTA**  
**CONSTRUCTION or MECHANICS**  
**LIEN FORMS**  
**PACKAGE**  
**CONTRACTOR EDITION**  
**(sole proprietor)**

Control Number: SD-P091-PKG



U.S. Legal Forms™ thanks you for your purchase of a Construction Lien Forms Package. This package is an important tool to help you with the legal issues that may arise between a contractor who performs services and/or supplies materials or equipment to a property but is not paid for the services/materials/equipment. This package includes state specific forms for a contractor operating as a sole proprietor or individual.

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### **I. FORM LIST**

With your Construction Lien Package, you will find many of the forms that are necessary to protect your legal rights or claims to secure and enforce a lien on property for unpaid services and/or materials or equipment.

Included in your package are the following forms:

1. Statement of Contract
2. Statement of Account
3. Notice of Dispute
4. Lien Account
5. Lien Statement
6. Acknowledgment of Satisfaction
7. Notice of Project Commencement
8. Location Notice
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10. Conditional Waiver and Release of Claim of Lien Upon Progress Payment
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14. Assignment of Claim of Lien

15. Waiver of Lien

## II. DESCRIPTIONS OF FORMS

Brief descriptions of the forms contained in your U.S. Legal Forms™ Construction Lien Package are found below.

Statement of Contract - As against a bona fide purchaser, mortgagee, or encumbrancer without notice, however, no lien shall attach prior to the actual and visible beginning of the improvement on the ground, but a person having a contract for the furnishing of labor, skill, material, or machinery for such improvement, may file with the register of deeds of the county within which the premises are situated or of the county to which such county is attached for judicial purposes, or if claimed under subdivision (2) of § 44-9-1, with the secretary of state, a brief statement of the nature of such contract, which statement shall be notice of his lien for the contract price or value of all contributions to such improvement thereafter made by him or at his instance.

Statement of Account - Any person furnishing any of the items for which a lien may be claimed under the provisions of § 44-9-1 under a contract, either express or implied between the owner of the property or his duly authorized agent or representative, and any contractor working upon or about such property may serve upon the owner, or his duly authorized agent or representative at any time, a sworn account and notice of his claim showing the items and amounts and the dates that the same were furnished, and thereupon the owner shall withhold from his contractor so much of the contract price as may be necessary to meet the claims of persons who have served such accounts and notices.

Notice of Dispute - Whenever any such account and notice is served upon the owner of the property or his duly authorized agent or representative, he shall furnish his contractor with a copy of the same, and if such contractor shall not within fifteen days after the receipt of such account and notice give the owner, his agent, or representative, written notice that he intends to dispute the claim, he shall be considered as assenting thereto and such owner may pay the same to the claimant when it becomes due and deduct the amount out of any moneys due such contractor, who may in like manner deduct such amount from any moneys due from him to his subcontractor or the claimant.

Lien Account - The owner, by serving written request within fifteen days after the completion of the contract, may require any person who may have a lien under the provisions of this chapter, to furnish him an itemized and verified account of his lien claim, the amount thereof, and his name and address. No action or other proceeding shall be commenced for the enforcement of such lien until ten days after such statement is so furnished pursuant to the request of the owner.

Lien Statement - The lien shall cease at the end of one hundred and twenty days after doing the last of such work, or furnishing the last item of such skill, services, material, or machinery, unless within such period a statement of the claim therefor be filed with the register of deeds of the county in which the improved premises are situated, or of the county to which such county is attached for judicial purposes, or if the claim be under the provisions of subdivision 44-9-1 (2), with the secretary of state.

Acknowledgment of Satisfaction - Whenever a lien has been claimed by filing the same in the office of the register of deeds and it is afterward satisfied by payment, foreclosure, compromise, or other method, the creditor shall execute and deliver to the owner of the property a satisfaction describing the lien by its date, date of filing, amount claimed, description of the property, and the

names of the lien claimants and owner of the property. Such satisfaction shall be executed before two witnesses or acknowledged before a notary public, and upon presentation to the register of deeds, he shall file the same and cancel the said lien of record.

Notice of Project Commencement - Any owner or any person entering into a direct agreement with the owner, or the duly authorized agent or representative of the owner, may file with the register of deeds of the county in which the improved premises are situated a notice of project commencement. The notice shall be filed within thirty days of the commencement of work and shall be accompanied by a filing fee of ten dollars to be deposited in the county's general fund. The register of deeds in each county shall maintain an index of all notices of project commencements.

Location Notice - Any person filing a notice of project commencement shall post the name and address of the contractor and location notice at the job site. The location notice shall contain the following statement: The contractor on this project has filed a notice of project commencement at the county courthouse. Any sub-subcontractor and any supplier to a subcontractor shall comply with the notice provisions of § 44-9-53 before filing liens in connection with this project.

Notice of Furnishing - If the provisions of §§ 44-9-50 and 44-9-51 are first invoked, no sub-subcontractor or supplier to subcontractors is entitled to extend, pursuant to § 44-9-15, a lien created pursuant to subdivision 44-9-1 (1), unless the sub-subcontractor or supplier has first provided notice of furnishing labor or materials by certified or registered mail to the contractor identified in the notice of project commencement and has provided a copy of the notice to the owner of record. Notice pursuant to this section shall be made not later than sixty days after doing the last of such work, or furnishing the last item of such skill, services, material, or machinery, and the post office receipt for mailing such notice shall be attached to the lien and filed in the office of register of deeds. Any person who gives notice in accordance with this section may extend a lien as provided in § 44-9-15. This section does not apply to claims of individual laborers when the amount of their lien is less than two thousand dollars.

Conditional Waiver and Release of Claim of Lien upon Progress Payment - This Conditional Waiver and Release of Claim of Lien Upon Progress Payment form is for use by a lienor in consideration of a certain sum to waive and release his or her lien and right to claim a lien for labor, services or materials furnished through a specific date to a customer on the job of the owner of property. This Conditional Waiver and Release of Lien Upon Progress Payment is conditioned upon the lienor receiving collected funds for the described work, and if such funds are not received within a particular number of days of the date of this waiver, this Conditional Waiver and Release of Lien is void.

Unconditional Waiver and Release of Claim of Lien upon Progress Payment - This Unconditional Waiver and Release of Claim of Lien upon Progress Payment form is for use by a lienor in consideration of a certain sum to waive and release his or her lien and right to claim a lien for labor, services or materials furnished through a particular date to a customer on the job of the owner of property.

Conditional Waiver and Release of Claim of Lien upon Final Payment - This Conditional Waiver and Release of Claim of Lien upon Final Payment form is for use by a lienor in consideration of final payment to waive and release his or her lien and right to claim a lien for labor, services or materials furnished through a certain date to a customer on the job of an owner of property. This Conditional Waiver and Release of Lien Upon Final Payment is conditioned upon the lienor receiving collected funds for the described work, and if such funds are not received within a

particular number of days of the date of this waiver, this Conditional Waiver and Release of Lien is void. This waiver and release covers the final payment to the lienor for all labor, services, equipment, or material furnished on the job. Before any recipient of this document relies on it, the party should verify evidence of payment to the lienor.

Unconditional Waiver and Release of Claim of Lien upon Final Payment - This Unconditional Waiver and Release of Claim of Lien Upon Final Payment form is for use by a lienor in consideration of final payment to waive and release his or her lien and right to claim a lien for labor, services or materials furnished through a certain date to a customer on the job of an owner of the property.

Assignment of Claim of Lien - This Assignment of Claim of Lien form is for use by an individual lienor who furnished or supplied labor, materials, or laborers for the purpose of improvements of real property such that the lienor is entitled to a lien for the value of labor, materials, or laborers supplied to provide notice that he or she assigns his or her claim and lien to an individual who shall have all the rights and remedies under law to which the lienor is entitled subject to all defenses thereto that might be made if such assignment had not been made, for the purpose of filing and for the enforcement of the lien.

Waiver of Lien - This Waiver of Lien form is for use by an individual lienor who has furnished materials, supplies, equipment, and services to an owner, contractor or subcontractor for the improvement of property to waive any lien to which the lienor would otherwise be entitled to under Title 5 or Title 44 of the South Dakota Codified Laws or by virtue of the common law of South Dakota by the endorsement of a joint check where the payees include the contractor or subcontractor and the lienor and by the execution of a separate agreement of waiver between the maker of the joint check and the lienor.

If you need additional information, please visit [www.uslegalforms.com](http://www.uslegalforms.com) and look up forms by subject matter. You may also wish to visit our legal definitions page at <http://definitions.uslegal.com/>

### **III. TIPS ON COMPLETING THE FORMS**

The form(s) in this packet may contain “form fields” created using Microsoft Word or Adobe Acrobat (“.pdf” format). “Form fields” facilitate completion of the forms using your computer. They do not limit your ability to print the form “in blank” and complete with a typewriter or by hand.

It is also helpful to be able to see the location of the form fields. Go to the View menu, click on Toolbars, and then select Forms. This will open the Forms toolbar. Look for the button on the Forms toolbar that resembles a shaded letter “a”. Click this button and the form fields will be visible.

By clicking on the appropriate form field, you will be able to enter the needed information. In some instances, the form field and the line will disappear after information is entered. In other cases, it will not. The form was created to function in this manner.

#### **IV. DISCLAIMER**

These materials were developed by U.S. Legal Forms, Inc. based upon statutes and forms for the subject state. All information and Forms are subject to this Disclaimer:

**All forms in this package are provided without any warranty, express or implied, as to their legal effect and completeness. Please use at your own risk. If you have a serious legal problem, we suggest that you consult an attorney in your state. U.S. Legal Forms, Inc. does not provide legal advice. The products offered by U.S. Legal Forms (USLF) are not a substitute for the advice of an attorney.**

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