

TITLE 4: ECONOMIC RESOURCES
DIVISION 5: BUSINESS REGULATION

§ 5803. Filing Claims.

(a) *Notice.* Any licensed construction contractor or construction material supplier claiming a lien shall apply therefore to the Superior Court. Such “Application for a Lien” shall be accompanied by a written “Notice of Lien” setting forth the alleged facts by virtue of which the claimant claims a lien, and shall be accompanied by any filing fee required by the court. A copy of the application and notice shall be served in the manner prescribed by law for service of summons upon the owner of the property and any person with an interest therein and upon the party or parties who contracted for the improvement. The Application shall set forth the amount of the claim, the work or material furnished, a description of the property sufficient to identify the same, the return date to the court, and any matter necessary for a clear understanding of the claim.

(b) *Return of Notice.* The Application for a Lien and Notice of Lien shall be returnable not less than three nor more than 10 days after service. On the return day, a hearing shall be held by the court to determine whether probable cause exists to permit the lien to attach to the property. Any person to whom notice is required to be given shall be permitted to offer testimony and documentary evidence on the issue of whether probable cause exists to permit the lien to attach. If the person who contracted for the improvement from which the requested lien arises claims a set-off against the lienor, or if any person to whom notice is required to be given otherwise disputes the amount of the requested lien, the court shall hear and receive all admissible evidence offered and shall only permit the attachment of a lien in the net amount which the court determines is the reasonable probable outcome of any such dispute. The return day hearing may be continued at the order of the court so that the entire controversy need not be determined on the originally scheduled return day, however the court shall handle all actions filed under this chapter on an expedited schedule. The lien shall not attach to the property until the court finds probable cause exists and so orders. No such order shall be entered before the application and notice have been served on the party contracting for the improvement and that party has been given an opportunity to appear at the hearing.

(c) *Time for filing.* The Application for a Lien and Notice of Lien shall be filed not later than 60 days after the date of completing of the improvement against which it is filed. The term “date of completion” as used in this section means the time when the owner, general contractor or material supplier for the improvement completes the delivery of a notice upon all other parties attesting that the contracted work on the improvement has been completed or has been abandoned due to non-payment from the owner; provided that notice of completion shall not be effective for any purpose unless prior to the notice there has been substantial completion of the improvement, delivery of the materials, or the improvement has been actually abandoned. “Substantial completion” with regard to material suppliers means that all materials contracted for have been delivered to the job site. The delivery of the notice of completion shall not be construed as

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an admission by any party that the improvement has been satisfactorily completed. If a valid notice of completion is not delivered within one year after the actual completion or abandonment of the improvement the “date of completion” shall be deemed to be one year after actual completion or abandonment.

(d) *Joint owners.* If the fee title or leasehold interest to the land involved is held in joint or common ownership or as an estate by the entirety, service upon one of the owners or lessees of the Application for a Lien, Notice of Lien, and Notice of Completion in accordance with this section shall be deemed service upon all of the owners and lessees. Likewise, if the parties who contracted for the improvement, if other than the owner of fee title or lessees to the property involved, hold their interest in the premises in joint or common ownership, or as an estate by the entirety, service upon one of the parties of the application and the notices in accordance with this section shall be deemed service upon all of the parties.

Source: PL 10-65, § 4.