

How to register a builders lien

This information sheet provides guidance about the process of filing a builders lien against titled land in the Land Titles Office.

This information sheet is not legal advice. It is intended to be a simplified general resource and summarizes only certain requirements of the *Builders Lien Act*. Do not rely on this information as a substitute for getting legal advice.

To find a lawyer, contact the Law Society of Yukon, by calling (867) 668-4231 or search online at lawsocietyyukon.com/find-a-lawyer. The Law Society regulates the practice of law in the Yukon. It does not provide legal advice or representation.

For more information, contact the Law Line, by calling (867) 668-5297 or by email to lawyer@yplea.com. The Law Line provides legal information by people knowledgeable about the law. It does not provide legal advice or representation.

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How do I claim a lien?

To claim a lien, the claimant must fill out a claim of lien form and an Affidavit verifying the claim of lien. To fill out the forms, the claimant will need:

- the claimant's name and address;
- the name and address (if known) of the owner;
- the name and address of the person for whom the claimant did the work or provided the materials or machinery;
- the time or period within which the work was done or the material or machinery was provided (or for a lien for wages, the last day of work);
- a description of the work done or material or machinery provided;
- the amount of money claimed;
- the legal description of the property where the work was done or where the material or machinery was provided;
- the date when the period of credit extended (if any) expired.

To make sure the legal description of the property is correct, the claimant may order a copy of the owner's certificate of title from the Land Titles Office. The fee to obtain a copy of a certificate of title is \$3.

The claimant will have to see a Notary Public to swear the Affidavit verifying the claim of lien.

How do I register a lien?

To register a lien, the claimant must submit the original signed documents to the Land Titles Office and pay a registration fee. The Land Titles Office is located at 2134 2nd Avenue in Whitehorse and is open Monday to Friday (except statutory holidays) from 9 a.m. to 4 p.m. The fee is \$10 for each claim of lien submitted for registration.

What does the Land Titles Office do?

The Land Titles Office does not administer the *Builders Lien Act*. It is administered by the Department of Community Services, who are also responsible for the forms required by the legislation.

The role of the Land Titles Office is to register the claimant's lien against the owner's certificate of title. The Land Titles Office does not give legal advice or provide advice about how the forms are to be completed or whether they have been completed properly. Registration of lien documents by the Land Titles Office does not mean that the documents meet the requirements of a valid, enforceable builders' lien.

The Land Titles Office does not review lien documents for content, completeness or compliance with the *Builders Lien Act*. The Land Titles Office will examine the documents only to make sure:

- the form has been filled out with the information listed above;
- the legal description is correct; and
- the claim of lien and Affidavit are correctly signed.

If this information is filled out, if the claim of lien and Affidavit have been correctly signed, and once the claimant has paid the required fee, the Land Titles Office will register the documents. The Land Titles Office does not provide immediate confirmation of registration. Generally, the Land Titles Office will provide the claimant with verification of registration within seven business days. However, the claim of lien will be registered effective the date and time it is accepted for registration by the Land Titles Office.

How do I enforce a lien?

A registered lien ceases to exist within a range of up to 90 days after the date the work has been completed or the materials or machinery were provided or the wages were earned, or after the expiry of the period of credit if that period is stated in the claim of lien, depending on the nature of the lien. Lien claimants should obtain legal advice about the deadlines. In order to ensure that the lien does not cease to exist, the claimant must:

1. make an application to the Supreme Court of Yukon to realize the claim;
2. ask the Court to issue a certificate of pending litigation; and
3. register the certificate of pending litigation with the Land Titles Office.

How do I discharge a lien?

Once a lien has been registered, to remove it from the owner's certificate of title, the claimant must fill out a form called Receipt for Discharge of Lien and an Affidavit verifying Claim of Lien or Discharge. The claimant will have to see a Notary Public to swear the Affidavit verifying Claim of Lien or Discharge. The claimant and the owner will decide between them whether the claimant must submit the original signed documents to the Land Titles Office and pay a registration fee, or deliver the signed documents to the owner. The fee is \$10 to register a discharge of lien.

Where can I find the forms?

You can find fillable forms online at Yukon.ca.

- [Form 1](#) – Claim of Lien for Materials or Machinery Placed or Furnished
- [Form 2A](#) – Claim of Lien for Wages for Work Done (Single Claimant)
- [Form 2B](#) – Claim of Lien for Wages for Work Done (Multiple Claimants)
- [Form 3](#) – Receipt for Discharge of Lien
- [Form 4](#) – Affidavit verifying Claim of Lien or Discharge