

Index

ABANDONMENT

Contract, abandonment of, **5:3**

ACTIONS

Perfection of Lien, this index

ADMINISTRATORS

Persons subject to lien, **3:6**

AFFIDAVITS

Attorney's affidavit to support
release of lien, **7:31**

Contractors

generally, **6:13**

given by contractor, require-
ment of, **6:15**

individual acting for corpora-
tion or company, **6:17,**
6:19

individual contractor's affidavit,
6:18, 6:20

individual owner/contractor,
affidavit of, **6:21**

legal affidavit, **6:14**

no subcontractors employed,
6:17, 6:18

subcontractors employed, **6:19,**
6:20

Forms

attorney's affidavit to support
release of lien, **7:31**

individual acting for corpora-
tion or company, **6:17,**
6:19

individual contractor's affidavit,
6:18, 6:20

individual owner/contractor,
affidavit of, **6:21**

lien claimant's address, owner's
affidavit regarding, **7:32**

AFFIDAVITS—Cont'd

Forms—Cont'd

no claim of lien filed after
demand, **7:20**

no subcontractors employed,
6:17, 6:18

nonpayment under O.C.G.A.
§ 44-14-366, **6:6, 6:7**

payment under O.C.G.A. § 44-
14-366, **6:8**

release of lien, attorney's affi-
davit to support, **7:31**

subcontractors employed, **6:19,**
6:20

Owner's affidavits. Owner, this
index

ALTERNATIVE DISPUTE RESOLUTION

Residential construction defects,
13:8

ARCHITECTS, REGISTERED

Persons entitled to claim lien, **4:7**

ASSIGNEES

Persons entitled to claim lien, **4:9**

ATTESTATION

Claim of lien, **7:4**

ATTORNEYS

Attorney's affidavit to support
release of lien, **7:31**

ATTORNEY'S FEES

Generally, **13:6**

Prompt Pay Act, **14:5**

BACKGROUND AND HISTORY

Generally, **1:1-1:10**

Constitutionality of statutes, **1:3**

MECHANICS' & MATERIALMEN'S LIENS

BACKGROUND AND HISTORY

—Cont'd

- Construction of statutes, **1:5**
- Constructive trust fund doctrine, **1:7**
- Criminal conversion of payments for real property improvements, **1:8**
- Definition, **1:1**
- Equitable liens, **1:6**
- Filing fees, **1:10**
- Historical review of Georgia law, **1:4**
- Licensing of contractors, **1:9**
- Nature, **1:1**
- Operation of statutes, **1:5**
- Origin of mechanics' liens, **1:2**
- Purpose, **1:1**
- Time computation, **1:10**

BANKRUPTCY

- Perfection of Lien, this index

BONA FIDE PURCHASERS

- Mechanics' lien, bona fide purchaser v., **9:7**

BOND TO DISCHARGE LIEN

- Generally, **8:1**
- Real property, bond substituted for, **8:2**

CANCELING CLAIM

- Claim of Lien, this index

CHARITABLE

ORGANIZATIONS

- Property interests subject to lien, **2:5**

CLAIM OF LIEN

- Generally, **7:1-7:33**
- Amount of claim, **7:3**
- Attestation, **7:4**
- Canceling claim, procedure generally, **7:29**
 - owner's request for cancellation, form, **7:30**

CLAIM OF LIEN—Cont'd

- Claimants. Persons Entitled to Claim Lien, this index
- Commencement, notice of generally, **7:23**
 - forms, **7:24, 7:27**
- Contractor, notice to generally, **7:23**
 - forms, **7:25, 7:28**
- Demand to have claim filed, **7:15**
- Description of real property, **7:6**
- Due date, **7:3**
- Estoppel to claim lien, **6:10**
- Expiration of lien, **7:33**
- Filing
 - generally, **7:8**
 - demand to have claim filed, **7:15**
 - preliminary notice, **7:13**
- Forms
 - generally, **7:9**
 - cancellation of lien, owner's request, **7:30**
 - demand for filing claim of lien
 - non-residential property, **7:21**
 - residential property, **7:22**
 - no claim of lien filed after demand, affidavit, **7:20**
 - preliminary notice of lien, below
- Full payment, cancellation of preliminary notice, **7:16**
- Name
 - lien claimant, **7:4**
 - owner, **7:5**
- Notice
 - commencement, notice of, above
 - contractor, notice to, above
 - personal notice of claim, **7:8**
 - preliminary notice, below
 - recovery under private property, payment bond or security deposit, notice requirements, **7:26**

INDEX

CLAIM OF LIEN—Cont'd

- Oral waiver of lien and estoppel to claim lien, **6:10**
- Owner's name, **7:5**
- Payment of contract price as defense to lien claims, **5:6**
- Personal notice of claim, **7:8**
- Persons Entitled to Claim Lien, this index
- Preliminary notice of lien
 - generally, **7:10**
 - expiration or cancellation, **7:14**
 - filing, **7:13**
 - forms
 - generally, **7:17**
 - attorney, filing by, **7:18**
 - letter to owner or contractor, **7:19**
 - full payment, cancellation upon, **7:16**
 - recording, **7:13**
 - statutory requirements, **7:11**
 - time for filing, **7:12**
- Real property description, **7:6**
- Recording
 - generally, **7:8**
 - preliminary notice, **7:13**
- Recovery under private property, payment bond or security deposit, notice requirements, **7:26**
- Signature, **7:4**
- Statutory requirements, **7:2**
- Time for filing
 - generally, **7:7**
 - preliminary notice, **7:12**

COMPLAINT

- Foreclosure complaint, **11:8, 11:9**

CONDOMINIUMS

- Property interests subject to lien, **2:7**

CONSENT ORDERS

- Foreclosure of lien, **11:7**

CONSTITUTIONALITY

- Mechanics' lien statutes, **1:3**

CONSTRUCTION DEFECTS

- Alternative dispute resolution, residential construction defects, **13:8**

CONSTRUCTION OF STATUTES

- Generally, **1:5**

CONSTRUCTIVE TRUST FUND DOCTRINE

- Generally, **1:7**

CONTESTING LIEN

- Perfection of Lien, this index

CONTRACT REQUIREMENTS AND DEFENSES

- Generally, **5:1-5:6**
- Abandonment of contract, **5:3**
- Amount of lien, contract as limitation, **5:5**
- Need for contract, **5:1**
- Payment of contract price as defense to lien claims, **5:6**
- Substantial compliance with contract, **5:2**
- Vague contract and owner interference, **5:4**

CONVERSION

- Criminal conversion of payments for real property improvements, **1:8**

CRIMINAL OFFENSES

- Conversion of payments for real property improvements, **1:8**

DAMAGES

- Generally, **13:1-13:8**
- Alternative dispute resolution for residential construction defects, **13:8**
- Attorney's fees, **13:6**

MECHANICS' & MATERIALMEN'S LIENS

DAMAGES—Cont'd

Contractor, measure of damages, **13:2**
Interest on damages, **13:7**
Liquidated damages, **13:4**
Litigation expenses, **13:6**
Measure of damages
contractor, **13:2**
owner, **13:3**
Owner, measure of damages, **13:3**
Punitive damages, **13:5**

DEATH

Contractor or subcontractor, death of, **10:4**

DEEDS TO SECURE DEBT

Mechanics' lien, deeds to secure debt v., **9:5**

DEFENSES

Contract Requirements and Defenses, this index

DEFINITIONS

Generally, **1:1**
Prompt Pay Act, **14:2**

DESCRIPTION OF REAL PROPERTY

Claim of lien, **7:6**

DISCHARGE OF LIEN

Bond to Discharge Lien, this index

ENGINEERS, PROFESSIONAL

Persons entitled to claim lien, **4:7**

EQUITABLE INTERESTS

Property interests subject to lien, **2:2**

EQUITABLE LIENS

Generally, **1:6**

ESTATES FOR YEARS

Property interests subject to lien, **2:3**

ESTOPPEL

Oral waiver of lien and estoppel to claim lien, **6:10**

EXECUTORS

Persons subject to lien, **3:6**

EXPIRATION OF LIEN

Generally, **7:33**

FILING

Claim of Lien, this index

FILING FEES

Generally, **1:10**

FORECLOSURE OF LIEN

Generally, **11:1-11:13**

Complaint

form, **11:9**

sufficiency, **11:8**

Concurrent suit, **11:4**

Consent orders, **11:7**

Federal tax liens, discharge at foreclosure sale, **11:12**

Forms

complaint, **11:9**

notice to IRS and reply, **11:13**

IRS, notice and reply, **11:13**

Jurisdiction, **11:6**

Levy, **11:10**

Nature of suit, **11:2**

Notice to IRS and reply, **11:13**

Parties to suit, **11:3**

Sale

generally, **11:10**

effect of foreclosure sale, **11:11**

federal tax liens, discharge at foreclosure sale, **11:12**

Time requirement for bringing action, **11:5**

Venue, **11:6**

Verdicts, **11:7**

FORESTERS, REGISTERED

Persons entitled to claim lien, **4:8**

INDEX

FORMS

Address, lien claimant's, owner's affidavit regarding, **7:32**

Affidavits

- attorney's affidavit to support release of lien, **7:31**
- contractor's affidavit, below lien claimant's address, owner's affidavit regarding, **7:32**
- no claim of lien filed after demand, **7:20**
- nonpayment under O.C.G.A. § 44-14-366, **6:6, 6:7**
- payment under O.C.G.A. § 44-14-366, **6:8**
- release of lien, attorney's affidavit to support, **7:31**

Attorney's affidavit to support release of lien, **7:31**

Cancellation of lien, owner's request, **7:30**

Claim of lien

- generally, **7:9**
- cancellation of lien, owner's request, **7:30**
- demand for filing claim of lien non-residential property, **7:21**
- residential property, **7:22**
- no claim of lien filed after demand, affidavit, **7:20**

Commencement, notice of claim of lien, **7:24, 7:27**

public works, **12:5, 12:7**

Contest of lien, notice of, **10:14**

Contractor, notice to claim of lien, **7:25, 7:28**

public works projects, **12:4, 12:6**

Contractor's affidavit

- individual acting for corporation or company, **6:17, 6:19**
- individual contractor's affidavit, **6:18, 6:20**

FORMS—Cont'd

Contractor's affidavit—Cont'd

- individual owner/contractor, affidavit of, **6:21**
- no subcontractors employed, **6:17, 6:18**
- subcontractors employed, **6:19, 6:20**

Foreclosure of lien

- complaint, **11:9**
- notice to IRS and reply, **11:13**

Nonpayment under O.C.G.A. § 44-14-366, affidavit, **6:6, 6:7**

Notice

- commencement, notice of, above
- contest of lien, **10:14**
- contractor, notice to, above
- foreclosure of lien, notice to IRS and reply, **11:13**
- lien action when lawsuit is filed, **10:12**
- public works projects, below

Payment under O.C.G.A. § 44-14-366, affidavit, **6:8**

Preliminary notice of lien rights

- generally, **7:17**
- attorney, filing by, **7:18**
- letter to owner or contractor, **7:19**

Public works projects

- commencement, notice of, **12:5, 12:7**
- contractor, notice to, **12:4, 12:6**

Release

- attorney's affidavit to support release of lien, **7:31**
- waivers, below

Subordination of lien to lender, **6:9**

Waivers

- interim waiver and release upon payment, **6:2, 6:3**

MECHANICS' & MATERIALMEN'S LIENS

FORMS—Cont'd

Waivers—Cont'd
unconditional waiver and
release upon final payment,
6:4, 6:5

GUARDIAN AND WARD

Persons subject to lien, **3:5**

HISTORY

Background and History, this
index

HOMESTEADS

Mechanics' lien, homestead v.,
9:8
Property interests subject to lien,
2:6

HUSBAND AND WIFE

Persons subject to lien, **3:4**

INCOMPETENTS

Persons subject to lien, **3:9**

INFANTS

Persons subject to lien, **3:9**

INTEREST ON MONEY

Damages, **13:7**
Prompt Pay Act, **14:5**

INTERNAL REVENUE SERVICE

Foreclosure of lien, notice to IRS
and reply, **11:13**

JOINT TENANTS

Persons subject to lien, **3:8**

JURISDICTION

Foreclosure of lien, **11:6**

LABORERS

Persons entitled to claim lien, **4:2**

LAND SURVEYORS

Persons entitled to claim lien, **4:7**

LANDLORD AND TENANT

Persons subject to lien, **3:2**

LEGAL INTERESTS

Property interests subject to lien,
2:1

LEVY

Foreclosure of lien, **11:10**

LICENSING

Contractors, **1:9**

LIEN ACTIONS

Perfection of Lien, this index

LIQUIDATED DAMAGES

Generally, **13:4**

LITIGATION EXPENSES

Generally, **13:6**

MACHINERY LESSORS AND SUPPLIERS

Persons entitled to claim lien, **4:6**

MORTGAGES

Mechanics' lien, mortgages v., **9:5**

NAMES

Lien claimant, **7:4**
Owner, **7:5**

NONPAYMENT

Affidavit of nonpayment under
O.C.G.A. § 44-14-366, **6:6,**
6:7

NOTICE

Claim of Lien, this index
Commencement of notice
claim of lien, **7:24, 7:27**
public works, **12:5, 12:7**
Contest of lien, **10:14**
Contractor, notice to
claim of lien, **7:25, 7:28**
public works projects, **12:4,**
12:6
Foreclosure of lien, notice to IRS
and reply, **11:13**
Forms
commencement of notice, above

INDEX

NOTICE—Cont'd

Forms—Cont'd

- contest of lien, **10:14**
- contractor, notice to, above
- foreclosure of lien, notice to
IRS and reply, **11:13**
- lien action when lawsuit is filed,
10:12
- preliminary notice of lien rights,
below
- public works projects, below
- Lien action, notice of, **10:11**,
10:12
- Preliminary notice of lien rights
generally, **7:17**
- attorney, filing by, **7:18**
- letter to owner or contractor,
7:19
- Public property, claims against.
Public Property, Claims
Against, this index
- Public works projects
commencement, notice of, **12:5**,
12:7
- contractor, notice to, **12:4**, **12:6**

OPERATION OF STATUTES

- Generally, **1:5**

ORIGIN OF MECHANICS'

LIENS

- Generally, **1:2**

OWNER

- Affidavit, owner's
generally, **6:13**
- individual owner/contractor,
affidavit of, **6:21**
- lien claimant's address, form of
owner's affidavit regard-
ing, **7:32**
- Cancellation of lien, form of
owner's request, **7:30**
- Contesting lien, owner's right,
10:13
- Individual owner/contractor, affi-
davit of, **6:21**

OWNER—Cont'd

- Lien claimant's address, form of
owner's affidavit regarding,
7:32
- Measure of damages, **13:3**
- Name of owner, **7:5**
- Persons subject to lien, **3:1**
- Preliminary notice of lien rights,
letter to owner or contractor,
7:19
- Vague contract and owner
interference, **5:4**

PARTIES

- Foreclosure action, **11:3**

PAYMENT

- Affidavit of payment under
O.C.G.A. § 44-14-366, **6:8**

PAYMENT BONDS

- Public Property, Claims Against,
this index

PERFECTION OF LIEN

- Generally, **10:1-10:14**
- Absconding contractor or
subcontractor, **10:3**
- Action against contractor and
subcontractor
generally, **10:1**
- absconding contractor or
subcontractor, **10:3**
- bankruptcy of contractor or
subcontractor, **10:6**
- circumstances that excuse suit,
10:2
- contractor or owner, lien action
against, **10:10**
- death of contractor or
subcontractor, **10:4**
- notice of action, **10:11**, **10:12**
- removal from state, contractor's
or subcontractor's, **10:5**
- time limit (365-day) to com-
mence lien action, **10:9**

MECHANICS' & MATERIALMEN'S LIENS

PERFECTION OF LIEN—Cont'd

- Bankruptcy
 - contractor or subcontractor, bankruptcy of, **10:6**
 - mechanics' liens and bankruptcy, **10:8**
- Contesting lien
 - notice of contest, **10:14**
 - owner's right to contest, **10:13**
- Contractors. Action against contractor and subcontractor, above
- Contractual provision preventing payment to claimant, **10:7**
- Death of contractor or subcontractor, **10:4**
- Notice of action, **10:11, 10:12**
- Notice of contest, **10:14**
- Removal from state, contractor's or subcontractor's, **10:5**
- Subcontractors. Action against contractor and subcontractor, above

PERSONAL

REPRESENTATIVES

- Persons subject to lien, **3:6**

PERSONS ENTITLED TO CLAIM LIEN

- Generally, **4:1-4:9**
- Architects, registered, **4:7**
- Assignees, **4:9**
- Contractors, **4:3**
- Engineers, professional, **4:7**
- Foresters, registered, **4:8**
- Laborers, **4:2**
- Land surveyors, **4:7**
- Machinery, lessors and suppliers, **4:6**
- Materialmen, **4:4, 4:5**
- Mechanics, **4:2**
- Subcontractors, **4:3**

PERSONS SUBJECT TO LIEN

- Generally, **3:1-3:9**

PERSONS SUBJECT TO LIEN—Cont'd

- Administrators, **3:6**
- Executors, **3:6**
- Guardian and ward, **3:5**
- Husband and wife, **3:4**
- Incompetents, **3:9**
- Infants, **3:9**
- Joint tenants, **3:8**
- Landlord and tenant, **3:2**
- Owner, **3:1**
- Personal representatives, **3:6**
- Trustees, **3:7**
- Vendor and vendee, **3:3**

PRIORITIES

- Generally, **9:1-9:10**
- Bona fide purchaser v. mechanics' lien, **9:7**
- Different mechanics' liens, priority between, **9:4**
- Homestead v. mechanics' lien, **9:8**
- Importance of priority, **9:2**
- Mortgages and deeds to secure debt v. mechanics' liens, **9:5**
- Superior liens, **9:3**
- Tax liens, state and federal, v. mechanics' lien, **9:9, 9:10**
- Waiver of priority by deed to secure debt holder, **9:6**
- When does lien attach, **9:1**

PROMISSORY NOTE

- Taking security or promissory note as waiver, **6:11**

PROMPT PAY ACT

- Generally, **14:1-14:5**
- Attorney's fees, **14:5**
- Contractor, payment to, **14:3**
- Definitions, **14:2**
- Interest, **14:5**
- Subcontractor, payment to, **14:4**

PROPERTY INTERESTS SUBJECT TO LIEN

- Generally, **2:1-2:9**

INDEX

PROPERTY INTERESTS

SUBJECT TO LIEN—Cont'd

- Charitable organizations, property of, **2:5**
- Condominiums, **2:7**
- Equitable interests, **2:2**
- Estates for years, **2:3**
- Extent of property interest covered by mechanics' lien, **2:9**
- Homestead and year's support, **2:6**
- Legal interests, **2:1**
- Public property, **2:4**
- Religious organizations, property of, **2:5**
- Time-share projects, **2:8**
- Usufructs, **2:3**

PUBLIC PROPERTY, CLAIMS AGAINST

- Generally, **12:1-12:9**
- Civil action on payment bond, **12:8**
- Commencement, notice of, **12:5, 12:7**
- Contractor, notice to, **12:4, 12:6**
- Federal public projects, lien on, **12:9**
- Notice
 - commencement, notice of, **12:5, 12:7**
 - contractor, notice to, **12:4, 12:6**
 - payment bond, notice requirements, **12:3**
- Payment bond for public works construction
 - generally, **12:2**
 - civil action on bond, **12:8**
 - notice requirements, **12:3**
- Property interests subject to lien, **2:4**
- State and public projects in general, **12:1**

PUNITIVE DAMAGES

- Generally, **13:5**

RECORDING

- Claim of Lien, this index

RELEASE OF LIEN

- Attorney's affidavit to support, **7:31**

RELIGIOUS ORGANIZATIONS

- Property interests subject to lien, **2:5**

RESIDENTIAL CONSTRUCTION DEFECTS

- Alternative dispute resolution, **13:8**

SALE

- Foreclosure of Lien, this index

SECURITY

- Taking security or promissory note as waiver, **6:11**

SIGNATURE

- Claim of lien, **7:4**

SPOUSES

- Persons subject to lien, **3:4**

SUBCONTRACTORS

- Perfection of Lien, this index
- Persons entitled to claim lien, **4:3**
- Prompt Pay Act, **14:4**

SUBORDINATION OF LIEN TO LENDER

- Form, **6:9**

TAX LIENS

- Foreclosure sale, discharge of federal tax liens, **11:12**
- State and federal tax liens v. mechanics' lien, **9:9, 9:10**

TIME COMPUTATION

- Generally, **1:10**

TIME LIMITS

- Claim of Lien, this index
- Foreclosure action, **11:5**

MECHANICS' & MATERIALMEN'S LIENS

TIME LIMITS—Cont'd

Lien action, 365-day time period to commence, **10:9**

TIME-SHARE PROJECTS

Property interests subject to lien, **2:8**

TRUSTEES

Persons subject to lien, **3:7**

TRUSTS

Constructive trust fund doctrine, **1:7**

USUFRUCTS

Property interests subject to lien, **2:3**

VENDOR AND VENDEE

Persons subject to lien, **3:3**

VENUE

Foreclosure of lien, **11:6**

VERDICTS

Foreclosure of lien, **11:7**

WAIVER

All claims must be paid, **6:16**

Effect of lien waiver, **6:12**

Express written lien waiver, **6:1**

Forms

interim waiver and release upon payment, **6:2, 6:3**

unconditional waiver and release upon final payment, **6:4, 6:5**

Interim waiver and release upon payment, **6:2, 6:3**

Oral waiver of lien and estoppel to claim lien, **6:10**

Priority, waiver by deed to secure debt holder, **9:6**

Security or promissory note, taking as waiver, **6:11**

Unconditional waiver and release upon final payment, **6:4, 6:5**

WIFE AND HUSBAND

Persons subject to lien, **3:4**