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CONSTRUCTION LENDING: MECHANIC'S LIENS AND HOW THEY WORK

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WHAT IS A MECHANIC'S LIEN?

A mechanic's lien is a security interest in the title to the property for the benefit of the person that filed the lien, who has supplied labor or materials to the property and has not been paid.

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TYPES OF LIENS

- **Constitutional Lien**
 - The Texas Constitution gives a self-executing lien to original contractors for the value of the labor provided
- **Statutory Lien**
 - Texas Property Code, Chapter 53

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WHO CAN FILE LIEN?

- A person has lien rights if the person labors, specially fabricates materials or furnishes labor or materials for construction or repair of:
 - A house, building or improvement
 - A levee or embankment
 - A railroad
- The statute also grants lien rights to architects, engineers, landscape contractors and demolition contractors. However, there is a different inception date for these liens.

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PERFECTING A LIEN CLAIM



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NOTICE & FILING REQUIREMENTS

- **Original (or General) Contractor**
 - No interim notices required
 - Must file the lien by the 15th day of the fourth month after which the indebtedness accrues
 - Indebtedness accrues:
 - Last day of the last month in the which the contract has been finally settled, completed or abandoned;
 - Last day of the last month in which a written declaration is served by the owner or original contractor stating that the contract has been terminated.

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