

Welcome to Winstead.

# CONSTRUCTION LENDING: MECHANIC'S LIENS AND HOW THEY WORK

Andrea Alford Hight



## 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.

[winstead.com](http://winstead.com)



## 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

winstead.com



## 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.

winstead.com



# PERFECTING A LIEN CLAIM



winstead.com

WINSTEAD

## NOTICE & FILING REQUIREMENTS

- **Original (or General) Contractor**
  - No interim notices required
  - Must file the lien by the 15<sup>th</sup> 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.

winstead.com

WINSTEAD

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Construction Lending: Mechanic's Liens and How They Work

Also available as part of the eCourse

[Construction and Facilities Lending](#)

First appeared as part of the conference materials for the  
49<sup>th</sup> Annual William W. Gibson, Jr. Mortgage Lending Institute session  
"Construction Lending: Mechanic's Liens and How They Work"