

ANALYSIS OF ALASKA LIEN STATUTES

There are several statutes in Alaska that create liens for parties that provide goods or services to assist in an oil exploration, development or extraction operation. The table below is intended to describe the features and limitations of these different liens. Behind this table are copies of the text of the applicable statutes effective as of October 8, 2010, the date of the preparation of this analysis. Be forewarned that the statutory provisions that create these liens are subject to change at any time, so that you can never be sure that you are properly perfecting and enforcing your lien rights based on this table or the accompanying text. Accordingly, you should use this table as a starting point in further research rather than an authoritative analysis. Also, this table should highlight some of the deadlines that apply to the creation, perfection and enforcement of each different lien, some of which are quite short.

Nature of Lien	Qualification for the lien	Property to which the lien attaches	Priority	Steps required to create the lien	Steps required to preserve and enforce the lien
<p>Mechanics and Materialmen</p> <p>Note, special rules apply in situations in which construction financing is involved. See Alaska Stat. §34.35.062</p>	<p>A party qualifies for the lien by:</p> <ol style="list-style-type: none"> 1. Performing labor upon real property at the request of the owner or the agent of the owner for the construction, alteration, or repair of a building or improvement; 2. Having the status of a Trustee of an employee benefit trust for the benefit of individuals performing labor on the building or improvement and having a direct contract with the owner or the agent of the owner for direct payments into the trust; 3. Furnishing materials that are delivered to real property under a contract with the owner or the agent of the owner that are incorporated in the construction, alteration or repair of a building or improvement; 4. Furnishing equipment that is delivered to and used upon real property under a contract with the owner or the agent of the owner for the construction, alteration or repair of a building or improvement; 5. Performing services under a contract with the owner or the agent of the owner in connection with the preparation of plans, surveys, or architectural or engineering plans or drawings for the construction, alteration or repair of a building or improvement, whether or not actually implemented on that property; or 6. Having the status of a general contractor. <p>Alaska Stat §34.35.050. Note, Alaska Stat. §34.35.115 details who may be considered an agent of the owner. Alaska Stat. §34.35.120 contains additional definitions.</p>	<p>The lien:</p> <ol style="list-style-type: none"> 1. Generally attaches to <ol style="list-style-type: none"> a. The land upon which a building or other improvement is constructed; b. Adjacent real property required for the convenient use of and occupation of the real property; and c. The mine on which the work is performed or for which the material is furnished. 2. Is, however, limited to the interest of an owner of less than a fee simple interest holder if the work is done at the request of this less than fee simple interest holder and, in the event of a leasehold, is limited to the leasehold interest if the contracting party only holds the leasehold absent a showing that the lessor was acting under the authority of the owner of the property. The circumstances under which the tenant is treated as the agent of the owner are somewhat complex. See Alaska Stat. §34.35.064 and Alaska Stat. §34.35.065 as well as Alaska Stat. §34.35.115. <p>Alaska Stat §34.35.055.</p>	<p>Generally, this lien is junior to encumbrances recorded before a notice of a right to lien is recorded (which can be recorded before work begins or while work progresses) or a notice of lien is recorded (which can be recorded while work is in progress and up to 90 days after work has stopped) but is senior to recorded conveyances if the holder of the lien is an individual that actually performed labor on the original construction of the building and improvements.</p> <p>Alaska Stat §34.35.060. The content of the pre-work or work in progress notice is provided in Alaska Stat. §34.35.064. Authority to file this notice after work begins is in Alaska Stat. §34.35.067. The content of the work in progress or post-work notice is detailed in Alaska Stat. §34.35.070.</p>	<p>The lien holder must record a claim of lien notice:</p> <ol style="list-style-type: none"> 1. If a "notice of completion" is recorded by the owner: <ol style="list-style-type: none"> a. Within 15 days after the "notice of completion" is recorded unless certain limited circumstances are present. 2. If no "notice of completion" is recorded by the owner: <ol style="list-style-type: none"> a. Within 90 days after the claimant: <ol style="list-style-type: none"> i. Completes the construction contract; or ii. Ceases to furnish labor, material, services or equipment for the construction, alteration, or repair of the property. <p>Alaska Stat §34.35.068. Note, the content and requirements for service of a notice of completion are detailed in Alaska Stat. §34.35.071.</p>	<p>The lien holder must commence an action in the proper court to enforce the lien within:</p> <ol style="list-style-type: none"> 1. 6 months; or 2. If the lien holder files a lien extension notice within the first 6 months, then within 6 months of the recording of the extension. <p>Also, the lien loses priority against purchasers of an interest in the property after the 6 month or up to 12 month period unless a notice of the pendency of the action is recorded before the purchaser acquires his, her or its interest.</p> <p>Alaska Stat §34.35.080.</p>
<p>Mines and Wells (lien on mines or oils well)</p>	<p>A party qualifies for the lien by taking the following actions at the request of the owner:</p> <p>Performs work in, on, or about a mine, or mining claim, oil, gas, or other well, in opening up, developing, sinking, drilling, drifting, stoping, mucking, stripping, shoveling, mining, hoisting, firing, cooking, teaming, or performs any other class or kind of work necessary or convenient to the development, operation, working, or mining of the claim or well; or who performs work tending to or assisting in the development, extraction, separation, or reduction to a commercial value of the minerals, or who performs work on a water right, ditch, flume, pipe line, tramway, tram, road, or trail, used in connection with the opening up, or to facilitate the opening up, operation, or development of the claim or well, or the extraction of the minerals.</p> <p>Alaska Stat §34.35.0125. Note, mine and mining claim are defined in Alaska Stat. §34.35.170(3) and minerals is defined in Alaska Stat. §34.35.170(4).</p>	<p>The lien:</p> <ol style="list-style-type: none"> 1. Generally attaches to <ol style="list-style-type: none"> a. The mine or mining claim; or b. The oil, gas, or other claim or well. <p>Alaska Stat §34.35.125.</p>	<p>Generally, this lien is junior to prior recorded mortgages, conveyances, encumbrances, and the like, but senior to mortgages, conveyances, encumbrances, etc., recorded after work starts.</p> <p>Alaska Stat §34.35.135.</p>	<p>The lien holder must record a claim of lien notice within 90 days after the claimant:</p> <ol style="list-style-type: none"> 1. Performs services; or 2. Ceases work. <p>Alaska Stat §34.35.160. The content of the required notice is also detailed in Alaska Stat. §34.35.160.</p>	<p>The lien holder must commence an action in the proper court to enforce the lien within:</p> <ol style="list-style-type: none"> 1. 6 months, unless, within this period, the lien holder provides "credit"; 2. If credit is given by the lien holder within the initial 6 month period, then 6 months from the date the credit is given, but the lien cannot last more than 12 months. <p>Alaska Stat §34.35.165. Note, the lien is only available to recover charges within 9 months of the date work ceases. See Alaska Stat §34.35.145</p>

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<p>Mines and Wells (lien on a mill or mining machine)</p>	<p>A party qualifies for the lien by taking the following actions at the request of the owner: Performs work or labor on, in, or about a mill or machine, either in the alteration or repair of it, or in the operation or working of it, while the mill or machine is used in or about a mine, or mining claim, oil, gas, or other claim or well, as a means of opening up, developing, or mining, or as a means of separating, extracting, or reducing minerals to commercial value.</p> <p>Alaska Stat §34.35.0130. Note, minerals is defined in Alaska Stat. §34.35.170(4)</p>	<p>The lien generally attaches to the mill or machine.</p> <p>Alaska Stat §34.35.130. Note, mill or machine is defined in Alaska Stat. §34.35.170(2)</p>	<p>Generally, this lien is junior to prior recorded mortgages, conveyances, encumbrances, and the like, but senior to mortgages, conveyances, encumbrances, etc., recorded after work starts</p> <p>Alaska Stat §34.35.135</p>	<p>The lien holder must record a claim of lien notice within 90 days after the claimant:</p> <ol style="list-style-type: none"> Performs services; or Ceases work <p>Alaska Stat §34.35.160. The content of the required notice is also detailed in Alaska Stat. §34.35.160.</p>	<p>The lien holder must commence an action in the proper court to enforce the lien within:</p> <ol style="list-style-type: none"> 6 months, unless, within this period, the lien holder provides "credit"; If credit is given by the lien holder within the initial 6 month period, then 6 months from the date the credit is given, but the lien cannot last more than 12 months. <p>Alaska Stat §34.35.165. Note, the lien is only available to recover charges within 9 months of the date work ceases. See Alaska Stat §34.35.145</p>
<p>Mines and Wells (lien on a dump or mass of mineral)</p>	<p>A party qualifies for the lien by taking the following actions at the request of a party that has the right of possession of a mine, or mining claim, or oil or gas well:</p> <ol style="list-style-type: none"> performs upon, in or about the mine or well any of the kinds of work necessary to create a lien pursuant to Alaska Stat. §34.35.0125 (above) performs any other kind of work in the production, piling up, or storing of a dump or mass of mineral. <p>Alaska Stat §34.35.0140(a). Note, minerals is defined in Alaska Stat. §34.35.170(4)</p>	<p>The lien generally attaches to the dump or mass, and to the gold, gold dust, or other mineral, whether they are deposited on the ground in a mass, or dumped into bunkers or hoppers, or stored in tanks or reservoirs, or placed in sluice boxes at the mine, and attaches to the gold, gold dust, and other minerals so long as they are in one mass and can be identified as being produced by the labor of the lienor.</p> <p>Alaska Stat §34.35.140(b). Note, "dump" or "mass" are defined in Alaska Stat. §34.35.170(1).</p>	<p>Generally, this lien is senior to prior recorded mortgages, conveyances, encumbrances, and the like.</p> <p>Alaska Stat §34.35.140(c).</p>	<p>The lien holder must record a claim of lien notice within 90 days after the claimant:</p> <ol style="list-style-type: none"> performs services; or ceases work. <p>Alaska Stat §34.35.160. The content of the required notice is also detailed in Alaska Stat. §34.35.160.</p>	<p>The lien holder must commence an action in the proper court to enforce the lien within:</p> <ol style="list-style-type: none"> 6 months, unless, within this period, the lien holder provides "credit"; If credit is given by the lien holder within the initial 6 month period, then 6 months from the date the credit is given, but the lien cannot last more than 12 months. <p>Alaska Stat §34.35.165. Note, the lien is only available to recover charges within 9 months of the date work ceases.</p>
<p>Improvement of Chattels (chattel remaining in possession of the lien holder)</p>	<p>A party qualifies for the lien by: making, altering, repairing or laboring upon an article of personal property at the request of the owner or lawful possessor.</p> <p>Alaska Stat. §34.35.175(a)</p>	<p>The lien attaches to the personal property involved.</p> <p>Alaska Stat. §34.35.175(a)</p>	<p>No indication is provided as to the priority of this lien.</p>	<p>The holder must have possession of the personal property.</p> <p>Alaska Stat. §34.35.175(a).</p>	<p>No time limit is indicted so long as possession is maintained.</p>
<p>Improvement of Chattels (chattel no longer in the possession of the line holder)</p>	<p>A party qualifies for the lien by: expending labor, skill, or materials upon a chattel at the request of the owner, reputed owner, authorized agent of the owner or lawful possessor.</p> <p>Alaska Stat. §34.35.180.</p>	<p>The lien attaches to the personal property involved.</p> <p>Alaska Stat. §34.35.180.</p>	<p>Generally, this lien is junior to prior recorded liens, mortgages and encumbrances, but senior to liens, mortgages and encumbrances that the lien holder did not know of at the time of starting work and that were not properly recorded at that time.</p> <p>Alaska Stat. §34.35.200.</p>	<p>The lien holder must record a claim of lien notice before delivery of possession to the owner or his or her agent.</p> <p>Alaska Stat §34.35.185. The content of the required notice is also detailed in Alaska Stat. §34.35.185.</p>	<p>The lien holder must commence an action in the proper court to enforce the lien within:</p> <ol style="list-style-type: none"> 6 months, unless, within this period, the lien holder provides "credit"; If credit is given by the lien holder within the initial 6 month period, then 6 months from the date the credit is given, but the lien cannot last more than 12 months. <p>Alaska Stat §34.35.205.</p>