



To: All Louisiana Policy Issuing Agents of WFG National Title Insurance Company
 From: WFG Underwriting Department
 Date: November 4, 2019
 Bulletin No.: LA 2019-05
 Subject: Private Works Act Revisions and Construction Lien Coverage

This bulletin summarizes important changes to the Private Works Act by Act 325 of the 2019 legislative session. See prior bulletin: LA 2019-02. This bulletin also updates and supplements prior bulletin: LA 2016-03.

Lien Periods – La. R.S. 9:4822

Significant changes have been made as shown in the chart below. The length of the lien filing period depends upon whether a notice of contract has been filed, the type of claimant and whether the property is residential. It commences with the filing of a notice of termination, or from substantial completion or abandonment if notice of termination is not filed.

Claimant	Notice of contract	Notice of Termination	Filing Period
General Contractor	Yes	Yes	60 days
General Contractor	Yes	No	7 months
General Contractor	No	Yes/No	None (work > \$100k) 60 days (work =/<\$100k)
Subs/suppliers/laborers	Yes	Yes	30 days
Subs/suppliers/laborers	Yes	No	6 months
Subs/suppliers/laborers	No	Yes/No	60 days
Subs/suppliers/laborers – Residential property	No	Yes/No	70 days

The lien filing period now can extend up to seven months from substantial completion or abandonment. The guidelines outlined in prior bulletin LA 2016-03 for providing construction lien coverage now apply to work performed within seven months, instead of 70 days, of closing.

Be sure that the construction lien provision in your seller/borrower’s affidavit provides for a lookback period of at least seven months. This standard form must be completed for every transaction. This change also applies to the period provided in Requirement No. 6 on Schedule B-I of the Commitment. Please contact the state office for revised forms.

In most cases where a notice of contract has been filed, the lien period can be shortened and risk reduced by filing a notice of termination up to five months after substantial completion or abandonment.

No Work Affidavits – La. R.S. 9:4820

There are two new rules that must be followed to be entitled to conclusively rely upon a “No Work” affidavit and insure the priority of the mortgage against unrecorded construction liens.

1. The site inspection must occur within four business days before or four business days after the filing of the mortgage.
2. The qualified inspector/surveyor’s “No Work” affidavit must be filed within four business days before or four business days after the filing of the mortgage.

These changes will eliminate certain practices where a “No Work” affidavit would be filed prior to the start of construction but long after the filing of the mortgage. If there is any likelihood that the insured mortgage will be used to secure financing for work on the property in the future, a “No Work” affidavit should be obtained and filed in accordance with the above rules.

An untimely “No Work” affidavit is not effective and should not be used to provide construction lien coverage without underwriting approval. Do not rely upon mail delivery for timely receipt of the affidavit. And be sure that the affidavit is filed before a notice of contract.

Other Changes

- The threshold for filing a notice of contract to preserve the general contractor’s lien has been raised from \$25,000 to \$100,000.
- A “complete property description” is required for notices of contract and termination. This means a description, that if contained in a mortgage, would be sufficient for the mortgage to be effective as to third parties. A street address alone is not sufficient.
- Express language had been added requiring the clerk, upon receipt of a written request, to cancel a prescribed lien (i.e., not preserved by a timely-filed lis pendens).

Implementation

Most of these changes apply to work that begins on or after January 1, 2020. The following rules apply if a notice of contract is filed before January 1.

Notice of Termination before 1/1/20	Substantial completion before 1/1/20	Applicable lien filing periods
Yes	No	Prior law applies
No	Yes	Prior law applies, but no later than 6/30/20 for subs/suppliers and 7/31/20 for GCs
No	No	Revised law applies

If you have any questions, please do not hesitate to contact underwriting counsel.

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The Agent may be held responsible for any loss sustained as a result of the failure to follow the standards set forth above.