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OKLAHOMA MECHANICS AND MATERIALMEN'S LIENS

**A How-To-Guide: Rules, Checklists,
Forms and more**

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Oklahoma Mechanics and Materialmen's Liens: A How-to-Guide

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1. Mechanics and Materialmen's Liens

A. Overview

The homestead, a family residence that is cherished and protected under the law, is exempt from a forced sale for the collection of a debt, except for three occasions: 1) the non-payment of taxes, 2) a default in mortgage, and 3) the failure to satisfy a mechanics and materialmen's lien ("M&M Lien").

Yes, an M&M Lien is strong enough to trump even the vaunted homestead. This powerful tool is available to contractors, subcontractors and materialmen in both commercial and residential work. It secures payment of a private debt (the lien cannot be used in a public construction project). Our lawmakers consider construction so vital to the Oklahoma economy that it gave those engaged in the industry special protections with this lien.

But there's a catch. Since the M&M Lien did not exist at common law and is a creature of statute, one must be careful to strictly adhere to the law's requirements. Filing the lien one day late, for example, is fatal. Liberality should be given to the enforcement of the lien, after the lien has clearly attached, and not in determining the question as to whether a lien exists.¹ There are many traps and gray areas in lien law, so err on the side of caution.

What if one loses his rights to the M&M Lien? In such case, he will be forced to rely on a breach of contract lawsuit, perhaps wait two years to get his day in court, and hopefully collect on the judgment if he prevails, meanwhile he takes "the cure" because of the attorneys' fees and loss of revenue—in legal parlance "the cure" is filing for bankruptcy.

The construction business is fraught with risks, not the least of which is the use of credit by all players. Savvy creditors are well aware of the state's lien laws, imbed the lien's key triggers in the project's schedule, and aren't afraid to use it.

As a side bar, the name "Mechanics and Materialmen's Lien" is a little annoying, right? It should be called the Contractor and Supplier's Lien.

[1](#) *American Tank & Equip. Co. v. T. E. Wiggins*, 42 P.2d 115, 1934 OK 661

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