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LICENSE REQUIREMENTS UNDER MICHIGAN'S CONSTRUCTION LIEN ACT

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From a contractor's point of view, one of the most important laws in Michigan is the Construction Lien Act ("CLA"). This law provides remedies and protection for homeowners, contractors and laborers and ensures that those who are entitled to payment for their labor receive it.

Under the CLA, a building project is classified as either commercial or residential. Understanding the distinction between the two and following the correct procedures for each can make all the difference in a contractor's ability to collect on a particular job.

In order for a contractor to take advantage of the CLA, the contractor must have a written contract directly with the owner, provide the owner with a Notice of Furnishing, execute Sworn Statements and record a Claim of Lien within ninety (90) days of providing the last labor or material on the project.

A residential builder who meets all of the other requirements previously stated may only enforce his lien rights under the CLA *if he is a licensed contractor in the State of Michigan*. This is the most overlooked requirement of the CLA and the ramifications to a contractor who fails to obtain a residential builder's license can be devastating.

To illustrate, if a contractor working on a *commercial* project fails to fulfill his obligations under the lien act (for example, doesn't record a Claim of Lien within the required timeframe) he may still have another avenue to pursue collection - filing suit in state court. However, if a builder is working on a *residential* project, and he is not licensed, not only does he lose the ability to foreclose on his construction lien (precisely because he is not licensed), recent case law suggests he may lose the right to sue in state court to collect money due, leaving him with no recourse at all.

If you have any questions about the Michigan Construction Lien Act or your rights as a contractor or property owner, please plan to attend our upcoming seminar on the CLA. (See sidebar.) If you are unable to attend, feel free to schedule an appointment with one of our attorneys who can help guide you through the CLA.