

Massachusetts Amends Mechanic's Lien Law to Include Design Professionals

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On **January 5, 2011**, amendments to the Massachusetts mechanic's lien statute (G.L. c. 254) were signed into law. These amendments explicitly extend the security of a mechanic's lien, long enjoyed by contractors and suppliers, to architects, landscape architects, professional engineers, licensed site professionals and land surveyors licensed or registered in the commonwealth ("Design Professionals"). The lien can secure payment of a wide variety of "professional services" rendered by Design Professionals, ranging from programming to construction administration. The amendments become effective on **July 1, 2011**.

This new law brings Massachusetts into line with many other states which offer the protection of a lien on a project owner's real estate to secure payment of fees to Design Professionals. It eliminates ambiguities concerning liens for Design Professionals arising out of prior amendments to the mechanic's lien statute.

As is the case for contractors and suppliers under the existing mechanic's lien statute, Design Professionals seeking to establish such a lien must strictly comply with a variety of procedural requirements and deadlines in order to perfect their liens. These requirements and deadlines are "jurisdictional" in that the failure to satisfy them will generally eliminate the possibility of establishing and realizing on a lien. Compliance with these requirements will permeate many aspects of practice, including contractual provisions, diligence, dealings with subcontractors, client relationships and internal controls or procedures to establish and ensure the security of a lien for professional services.

The new amendments will primarily affect private projects and will not generally come into play with respect to public projects.

Design Professionals: Design Professionals will need to become very familiar with all aspects of the new law in order to realize the increased security that it offers. We urge you to review the statute with counsel to maximize its advantages to your practice, especially in the current economic climate. Expect Donovan Hatem LLP to host a Roundtable and to provide additional guidance on this new legislation of importance to Design Professionals.

If you have any questions please feel free to call Neal Glick at 617.406.4678, or Luke Conrad at 617.406.4535.