

Stop Notices Are Valuable Tools to Collect Money



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You work hard, and when you do not get paid for your labor or materials, it is financially and emotionally devastating. To increase your chances of getting paid, consider using Stop Notices.

Stop Notices are a remedy the Arizona Legislature added to assist contractors and material suppliers in getting paid. A Stop Notice is a demand upon a lender or owner to immediately stop paying a general contractor. A Stop Notice creates a lien on undisbursed construction funds held by the owner or construction lender.

Contractors and suppliers who can record a mechanic's lien can serve a Stop Notice. Thus, to serve a valid Stop Notice, a contractor or supplier must have served a 20-Day Notice. The project must be a private project, not a public project. If the project is "owner occupied", the contractor/supplier cannot serve a valid Stop Notice unless the Claimant has a written contract with the owner-occupant.

A Stop Notice is served on the lender, if there is one, and the project owner. There are two types of Stop Notices: bonded and unbonded. A bonded Stop Notice is a Stop Notice that is served with a bond, issued by a surety company, for 125% of the amount owed. A lender that receives a bonded Stop Notice must withhold the amount of the claim until the claim is resolved. This is the strength of the Stop Notice remedy: serving a Stop Notice can shut down or significantly curtail a project. However, a surety normally requires a bond to be backed by cash collateral. The requirement of cash collateral can preclude contractors and suppliers from being able to use the bonded Stop Notice remedy.

An unbonded Stop Notice is a Stop Notice without the bond. An owner served with an unbonded Stop Notice

from a subcontractor or supplier must withhold funds to satisfy the subcontractor or supplier's claims. While the lender does not have to honor an unbonded Stop Notice, often times the lender will choose to honor it, which will either get you paid or cause the project to be shut down. You can prepare an unbonded Stop Notice in house, or a preliminary notice company can prepare unbonded Stop Notices for you for a reasonable fee.

Most contractors in Arizona do not use Stop Notices. If you are not getting paid on a project, consider, at a minimum, an unbonded Stop Notice. A project owner must withhold money and a lender may withhold money. An unbonded Stop Notice is inexpensive, and it may be the tool that gets you paid.

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