

The Legal Strategist

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TEXAS ESOTERIC FACTS

There are substantial changes to the Texas lien laws in 2022 as it applies to mechanics' and material-men's liens. These changes will take effect for contracts entered into on or after January 1, 2022¹. The changes and updates to the Texas mechanics lien rules and requirements include: Change in definitions, Expansion of design professionals' right to filing a Texas mechanics lien, Updated notice requirements for lower-tier subcontractors, Updated provisions for calculating deadlines that fall on weekends and holidays, Updated methods of serving notices, New statutory forms for notices, and Deleted requirement for Notice of Specially Fabricated Materials. The Feature Topic is a cursory review.

The highest national speed limit is observed in Texas on a stretch between San Antonio and Austin on Texas State Highway 130. Here it is allowed to drive up to 85 miles per hour.

If you would like more information on this, or any other topic previously covered in my newsletter, which can be viewed on [The Legal Strategist](#) tab of my web site, please contact my office at 713.526.1883.

Scott Barrett

FEATURE TOPIC: CHANGES TO TEXAS LIEN LAWS

Texas has substantially changed its mechanic's lien laws. These changes deserve a post of their own, but below are a few of the major changes.

Purported Original Contractors – Tex. Prop. Code section 53.001 adds a definition for “purported original contractor.” This refers to an original contractor who is controlled by or can control (by, for example, stock ownership) the owner, or who was engaged by the owner for improvements without a good faith intention that the purported original contractor perform. HB 2237 amends Tex. Prop. Code section 53.026 (“Sham Contract”) to allow a contractor in direct contractual relationship with a purported original contractor to file mechanic's liens as though they were a direct contractor.

Notices – Tex. Prop. Code section 53.003 no longer allows notices to be sent by registered mail. Notices must be served in person, sent by certified mail, or sent by traceable private mail service. If you send a notice by registered mail, you are forfeiting your lien rights.

Single Deadline for Notices – Tex. Prop. Code section 53.056 now requires subcontractors to provide notice to the owner and the original contractor by the 15th day of the third month after the month in which labor or materials were provided for non-residential projects. Previously, subcontractors had to give notice to the original contractor by the 15th day of the second month thereafter, and to the original contractor and the owner by the 15th day of the third month thereafter. There is now only one deadline.

Statute of Limitations for Foreclosing a Lien – The new statute of limitation for foreclosing a mechanic's lien is the first anniversary of the last day a claimant may file the lien affidavit under Section 53.052. Tex. Prop. Code section 53.158.

Again, this overhaul is extensive, probably deserving of its own post. These are just four of the numerous changes that went into in 2022.

If you would like more information on this or any other topic covered in *The Legal Strategist*, please contact [Scott Barrett](#) to set up a consultation.