

NEW NOTICE REQUIREMENTS FOR LIENS

Pursuant to House Bill 629, §53.107 has been added to the Texas Property Code. This new section, effective with respect to original contract signed on or after September 1, 2005, provides additional statutory opportunity for unpaid subcontractors and materialmen to perfect a mechanics lien on retained funds. If the subcontractor/supplier has previously requested such information in writing or has provided an earlier notice of an unpaid claim, the Owner will be required to notify that subcontractor/supplier not later than the 10th day after an original contract is terminated or the original contractor has abandoned performance under the contract. If an Owner fails to timely provide such a notice of termination or abandonment, a subcontractor may now perfect a lien on the retainage fund of a commercial project that may have been untimely under the code prior to its amendment. The devil is in the details. Please contact Paul Underkofler or Richard Schellhammer at GUCL for more details including notice requirements and deadlines for liens on retained funds.