

O.C. 51/2022

A.R. 22/2022

February 25, 2022

The Lieutenant Governor in Council makes the Builders' Lien Forms Amendment Regulation set out in the attached Appendix.

For Information only

Recommended by: Minister of Service Alberta

Authority: Builders' Lien Act
(section 70)

APPENDIX

Prompt Payment and Construction Lien Act BUILDERS' LIEN FORMS AMENDMENT REGULATION

1 The *Builders' Lien Forms Regulation* (AR 51/2002) is amended by this Regulation.

2 The title of the Regulation is repealed and the following is substituted:

Prompt Payment and Construction Lien Forms Regulation

3 Section 1 is amended by repealing clause (a) and substituting the following:

(a) "Act" means the *Prompt Payment and Construction Lien Act*;

4 The following is added after section 1:

Notice of dispute

1.1 A notice of dispute under section 32.2(2) of the Act is to be in Form 1.

Notice of non-payment

1.2(1) A notice of non-payment under section 32.3(5)(a) of the Act is to be in Form 2.

(2) A notice of non-payment under section 32.3(6) of the Act is to be in Form 3.

(3) A notice of non-payment under section 32.5(6)(a) of the Act is to be in Form 4.

(4) A notice of non-payment under section 32.5(7) of the Act is to be in Form 5.

5 Section 2 is amended

(a) in subsection (1) by striking out “Form 1” and substituting “Form 6”;

(b) in subsection (2) by striking out “Form 2” and substituting “Form 7”.

6 Section 3 is amended

(a) in clause (a) by striking out “Form 3 or Form 3.1” and substituting “Form 8 or Form 9”;

(b) in clause (b) by striking out “Form 4 or Form 4.1” and substituting “Form 10 or Form 11”.

7 Section 4 is amended by striking out “Form 5” and substituting “Form 12”.

8 Section 5 is amended by striking out “Form 6” and substituting “Form 13”.

9 Section 6 is amended by striking out “Form 7” and substituting “Form 14”.

10 Section 7 is amended by striking out “Form 8” and substituting “Form 15”.

11 Section 8 is repealed.

12 The Schedule is repealed and the following is substituted:

Form 1

Owner's Notice of Dispute
(Section 32.2(2) of the Act)

Name of Owner: _____

Owner address: _____

Work site legal land description: _____

Name of Contractor: _____

Contractor address: _____

Contractor address for service, if known: _____

The Owner disputes the proper invoice dated _____, submitted to the Owner by the Contractor in respect to the work done or material furnished. The Owner will not pay the indicated amount payable under the invoice:

(Please check the appropriate box)

The full amount of the proper invoice, being \$ _____

A portion of the amount of the proper invoice, being \$ _____

Reason(s) for non-payment:

Date

Signature (Owner)

Form 2

Contractor's Notice of Non-payment
(Section 32.3(5)(a) of the Act)

Name of Contractor: _____

Contractor address: _____

Work site legal land description: _____

Name of Subcontractor: _____

Subcontractor address: _____

Subcontractor address for service, if known:

The Contractor submitted a proper invoice to the Owner in respect to work done or materials furnished on:

The Contractor has not received payment from the Owner and will not pay the Subcontractor the amount under the subcontract that was included in the proper invoice within the time specified in section 32.3(1) of the *Prompt Payment and Construction Lien Act*.

Amount that will not be paid:

(Please check the appropriate box)

The full amount of the work provided or material supplied by the Subcontractor, being

\$ _____

A portion of the amount of the work provided or material supplied by the subcontractor, being

\$ _____

The Contractor hereby undertakes to refer the matter to adjudication under Part 5 of the *Prompt Payment and Construction Lien Act*, no later than 21 days after giving notice of the non-payment to the Subcontractor.

A copy of the Notice of Dispute under section 32.2(2) of the Act is enclosed.

Date

Signature (Contractor)

Form 3

Contractor's Notice of Non-payment Dispute

(Section 32.3(6) of the Act)

Name of Contractor: _____

Contractor address: _____

Work site legal land description: _____

Name of Subcontractor: _____

Subcontractor address: _____

Subcontractor address for service, if known:

The Contractor submitted a proper invoice to the Owner in respect to work done or materials furnished on:

The Contractor disputes the entitlement of the Subcontractor to payment of an amount under the subcontract that was included in the proper invoice. The Contractor will not pay the indicated amount:

(Please check the appropriate box)

The full amount of the work provided or material supplied by the Subcontractor, being

\$ _____

A portion of the amount of the work provided or material supplied by the subcontractor, being

\$ _____

Reason(s) for non-payment:

Date

Signature (Contractor)

Form 4

Subcontractor's Notice of Non-payment

Where Contractor Does Not Pay

(Section 32.5(6)(a) of the Act)

Name of Subcontractor: _____

Subcontractor address: _____

Work site legal land description: _____

Name of Contractor: _____

Contractor address: _____

Contractor address for service, if known: _____

(Complete for the Subcontractor who provided work or supplied materials in relation to the proper invoice.)

Name of Subcontractor: _____

Subcontractor address: _____

Subcontractor address for service, if known:

The Contractor submitted a proper invoice to the Owner in respect to work done or materials furnished on:

(Please check the appropriate box)

The Subcontractor has not received payment from the Contractor and will not pay the Subcontractor the amount under the subcontract that was included in the proper invoice within the time specified in subsection 32.5(1) of the *Prompt Payment and Construction Lien Act*.

[Non-payment to a Subcontractor who is entitled to payment from a Subcontractor in accordance with section 32.5(11) of the Prompt Payment and Construction Lien Act] The Subcontractor has not received payment from

the Owner and will not pay the Subcontractor the amount under the subcontract that was included in the proper invoice within the time specified in subsection 32.5(1) of the *Prompt Payment and Construction Lien Act*.

Amount that will not be paid:

(Please check the appropriate box)

The full amount of the work provided or material supplied by the Subcontractor, being \$_____

A portion of the amount of the work provided or material supplied by the Subcontractor, being \$_____

The Subcontractor hereby undertakes to refer the matter to adjudication under Part 5 of the *Prompt Payment and Construction Lien Act*, no later than 21 days after giving notice of the non-payment to the Subcontractor.

A copy of any Notice of Non-payment received by the Subcontractor is enclosed.

Date

Signature (Subcontractor)

Form 5

Subcontractor's Notice of Non-payment Dispute
(Section 32.5(7) of the Act)

Name of Subcontractor: _____

Subcontractor address: _____

Work site legal land description: _____

Name of Contractor: _____

Contractor address: _____

(Complete for the Subcontractor who provided work or supplied materials in relation to the proper invoice.)

Name of Subcontractor: _____

Subcontractor address: _____

Subcontractor address for service, if known:

The Contractor submitted a proper invoice to the Owner in respect to work done or materials furnished on:

The Subcontractor disputes the entitlement of another Subcontractor to payment of an amount under the subcontract that was included in the proper invoice in accordance with section 32.5(7) of the *Prompt Payment and Construction Lien Act*, or section 32.5(11) of the *Prompt Payment and Construction Lien Act*. The subcontractor will not pay the indicated amount:

(Please check the appropriate box)

The full amount of the work provided or material supplied by the

Subcontractor, being

\$ _____

A portion of the amount of the work provided or material supplied by

the subcontractor, being

\$ _____

Reason(s) for non-payment:

Date

Signature (Subcontractor)

Form 6

Statement of Lien
(Section 34 of the Act)

(Name of lienholder) of (residence of lienholder) (if claimant is the assignee of the original lienholder, state the facts) claims a lien under the *Prompt Payment and Construction Lien Act* on the estate of (name and residence of the owner of the land on which the lien is claimed) in the following land: (set out concise legal description)

(NOTE: If this lien is with respect to an improvement to an oil or gas well or to an oil or gas well site for which the lien may be registered in the Land Titles Office not later than 90 days from the last day that the work was done or the materials were last furnished, please check.

OR

If this lien is with respect to the manufacture and supply of ready-mix concrete referred to in the North American Industry Classification System (NAICS), as amended from time to time, for which the lien may be registered in the Land Titles Office not later than 90 days from the last day that the work was done or the materials were last furnished, please check.)

The lien is claimed with respect to the following work or materials, that is to say:

(give a short description of the nature of the work done or the materials furnished or to be furnished)

which work was or is to be done for or which materials were or are to be furnished for (name and residence of person for whom the work was or is being done or the materials were or are being furnished):

(please check the appropriate box):

The work was completed or the materials were last furnished on the day of _____, _____.

The work is not yet completed or the materials have not yet all been furnished.

The sum claimed as due or to become due is \$_____.

The address for service of the lienholder hereunder is
_____, in the Province of Alberta.

Dated at _____ this ____ day of, _____, _____.

Signature

(Status of signatory, e.g., lienholder; agent of lienholder;
or where the lienholder or agent is a corporation, the
signatory's position with the corporation)

NOTE: This form is for use only where the statement of lien is to be registered with the Minister of Energy.

Form 7

Statement of Lien on Interest in Crown Minerals (Section 36 of the Act)

This statement of lien applies with respect to the following (check the appropriate box):

To work done or materials furnished with respect to improvements, other than improvements to an oil or gas well or to an oil or gas well site, in which case this lien is to be registered with the Minister of Energy not later than 60 days from the last day that the work was last done or the materials were last furnished.

To work done or materials furnished with respect to improvements to an oil and gas well or to an oil or gas well site, in which case this lien is to be registered with the Minister of Energy not later than 90 days from the last day that the work was done or the materials were last furnished.

To work done or materials furnished with respect to the manufacture and supply of ready-mix concrete referred to in the North American Industry Classification System (NAICS), as amended from time to time, in which case this lien is to be registered with the Minister of Energy not later than 90 days from the last day that the work was done or the materials were last furnished.

(Name of lienholder) of (residence of lienholder) (if claimant is the assignee of the original lienholder, state the facts) claims a lien under the *Prompt Payment and Construction Lien Act* on the interest in minerals of (name and residence of the owner of the interest in minerals on which the lien is claimed) in the following land: (set out concise legal description).

The mineral is (set out mineral concerned).

The lien is claimed with respect to the following work or materials, that is to say:

(give a short description of the nature of the work
done or the materials furnished or to be furnished)

which work was or is to be done for or which materials were or are to be furnished for (name and residence of person for whom the work was or is being done or the materials were or are being furnished):

(check the appropriate box)

The work was completed or the materials were last furnished on the
day of _____, ____.

The work is not yet completed or the materials have not yet all been
furnished.

The sum claimed as due or to become due is \$_____.

The address for service of the lienholder hereunder is
_____, in the Province of Alberta.

Dated at _____ this ____ day of, _____, _____.

Signature

Form 8

Affidavit Verifying Claim

(Section 34(6) of the Act)

(Name of lienholder) of _____ in the Province of _____, (occupation), named in the above (or annexed) statement make oath and say that the said claim is true.

SWORN BEFORE ME at the _____ of)

_____, in the Province of _____,)

this _____ day of _____,)

_____) _____

) (Lienholder)

_____))

A Commissioner for Oaths)

Form 9

Affidavit Verifying Claim

(Section 34(6) of the Act)

(by two-way videoconferencing)

(Name of lienholder) of _____ in the Province of _____, named in the above (or annexed) statement make oath and say that the said claim is true, and that I am executing this document by two-way videoconferencing separate and apart from any other person.

SWORN BEFORE ME, _____)
a lawyer in and for the Province of Alberta)
at the _____ in the _____)
of _____ by two-way videoconferencing)
with the deponent who was at the _____)
in the Province of Alberta this ____ day of _____)
_____, _____ on the basis of evidence) _____
provided to me that enabled me to verify the) (Lienholder)
deponent's identity and confirm the contents)
of the document being executed.)

(Lawyer)

Form 10

**Affidavit Verifying Claim
by Other Than Lienholder**
(Section 34(6) and (7) of the Act)

(Name of deponent) of _____ in the Province of _____, (occupation), make oath and say:

- (1) That I am the agent (or assignee) of _____ named in the above (or annexed) statement and have full knowledge of the facts set forth in the above (or annexed) statement [or I am informed by (state source of information) and believe that the facts are as set forth in the above (or annexed) statement].

- (2) That the said claim is true [or when deponent has been informed, that I believe that the said claim is true].

SWORN BEFORE ME at the _____ of _____)
_____, in the Province of _____,)
this _____ day of _____,)
_____.) _____
) (Deponent)
_____)
A Commissioner for Oaths)

Form 11

**Affidavit Verifying Claim
by Other Than Lienholder**
(Section 34(6) and (7) of the Act)

(by two-way videoconferencing)

(Name of deponent) of _____ in the Province of
_____, (occupation), make oath and say:

- (1) I am the agent (or assignee) of _____ named in the above (or annexed) statement and have full knowledge of the facts set forth in the above (or annexed) statement [or I am informed by (state source of information) and believe that the facts are as set forth in the above (or annexed) statement].
- (2) The said claim is true [or when deponent has been informed, I believe that the said claim is true].
- (3) I am executing this document by two-way videoconferencing separate and apart from any other person.

SWORN BEFORE ME, _____)
a lawyer in and for the Province of Alberta)
at the _____ in the _____)
of _____ by two-way videoconferencing)
with the deponent who was at the _____)
in the Province of Alberta this ____ day of _____)
_____, _____ on the basis of evidence) _____
provided to me that enabled me to verify the) (Deponent)
deponent's identity and confirm the contents)
of the document being executed.)

(Lawyer)

Form 12

Notice of Change of Address for Service
(Section 39 of the Act)

To: Registrar of Land Titles (or the Minister of Energy)

Take notice that I hereby change my address for service as stated in my Statement of Lien (or in my last registered notice of change of address for service) registered in the Land Titles Office (or with the Minister of Energy) on _____ day of _____, _____ as No. _____ affecting the land described as follows:

(set out concise legal description)

and appoint _____ in the Province of Alberta as my address for service.

Dated at _____, this _____ day of _____, _____.

(Signature)

Form 13
(Section 43 of the Act)

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT

CERTIFICATE OF
LIS PENDENS

ADDRESS FOR SERVICE AND

CONTACT INFORMATION OF

PARTY FILING THIS DOCUMENT

To: Registrar of Land Titles (or the Minister of Energy)

This is to certify that proceedings have been taken in court to enforce a certain lien registered by _____ against (here describe lands), which lien was registered pursuant to the *Prompt Payment and Construction Lien Act* in the Land Titles Office (or with the Minister of Energy) on ____ day of _____, _____ as No. _____.

Dated at _____ this _____ day of _____, _____.

(Court Clerk)

Form 14

Discharge of Lien
(Section 47 of the Act)

To: Registrar of Land Titles (or the Minister of Energy)

I, _____ acknowledge payment of all (or \$
on account of) moneys due or to become due under the statement of lien made by or on behalf of
(name of lienholder) as lienholder, on the following land:

(set out concise legal description)

the statement of lien being registered in the Land Titles Office (or with
the Minister of Energy) on ____ day of ____, ____ as No. ____.

I declare that the said claim of lien has (not) been assigned or transferred and that I am entitled by law to
receive the money.

Wherefore the said claim of lien is hereby wholly discharged (or wholly discharged as to the following land).

Dated at _____ this _____ day of _____, ____.

Witness: _____ (Signature)

Form 15
(Section 52 of the Act)

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT

NOTICE TO
PROVE LIEN

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

To: (Name of lienholder)

Take notice that the undersigned hereby requires that you prove your lien registered pursuant to the *Prompt Payment and Construction Lien Act* on the ____ day of _____, ____ in the Land Titles Office (or with the Minister of Energy) as No.

with respect to the following land:

(set out concise legal description)

And further take notice that unless within 15 days from the date of service of this Notice on you, you file in the office of the Court Clerk at _____, Alberta, an affidavit giving detailed particulars of your lien pursuant to section 52 of the *Prompt Payment and Construction Lien Act*, you will lose your lien.

Dated at _____ this _____ day of _____, ____.

(Name of party giving notice)

13 This Regulation comes into force on the coming into force of the *Builders' Lien (Prompt Payment) Amendment Act, 2020*.