**SEVEN (7) PROCEDURAL REQUIREMENTS OF THE MISSISSIPPI CONSTRUCTION LIEN LAW**

**By: Robert P. Wise, Esq.**

**Sharpe & Wise PLLC** ©

**Jackson, Mississippi**

**Tel: 601-968-5561**

**rwise@sharpewise.com**

**www.sharpewise.com**

The new April 2014 Mississippi construction lien law requires that a lien claimant meet seven (7) strict procedural requirements. The failure of the lien claimant to follow the enumerated requirements set forth in Miss. Code Ann. § 85-7-405(1) renders the lien to “not be effective or enforceable”.[[1]](#footnote-1) Courts strictly construe the requirements because lien statutes are in derogation of the common law.[[2]](#footnote-2) The procedural requirements apply regardless whether the job is commercial or residential. The seven prerequisites are that the claimant:

* 1. Be in substantial compliance with the contract or purchase order;
	2. File claim of lien within 90 days of last addition to the job;
	3. Include in the lien a statement the amount due and last due date of the claim;
	4. Notice the filing of claim of lien within 2 days to contractor and owner;
	5. File a payment/lien action within 180 days, or 90 days if owner/GC contests;
	6. File a *lis pendens* with commencement of the payment action; and
	7. Be licensed if required with Board of Contractors or other licensing board.

In addition there are two starting gate requirements before a Mississippi subcontractor or materialman can qualify for a construction lien under Mississippi’s new construction lien law:

1) For 2nd tier subs and materialmen only, a written Notice of Commencement of addition of labor or materials sent to the general contractor within 30 days of the first supply on commercial and multi-family jobs [[3]](#footnote-3) ; and

2) On single family residential jobs a written Pre-Lien Notice to the owner sent at least 10 days before the filing of any lien on a single family residence.[[4]](#footnote-4) See my summary on this website: “Four (4) Points Mississippi Subcontractors and Materialmen Must Know About Mississippi’s New Lien Law to Preserve Lien Rights” ([www.sharpewise.com](http://www.sharpeandwise.com) ).

1. Miss. Code Ann. § 85-7-405(1). [↑](#footnote-ref-1)
2. As Justice Jimmy Robertson has written, “[t]here is no natural law of materialman’s liens” since claimants have lien rights “only to the extent that they have brought themselves within the terms of the statute.” Riley Blg. Suppliers, Inc. v. First Citizens Nat’l Bank, 510 So.2d 506, 508 (Miss.1987). [↑](#footnote-ref-2)
3. Miss. Code Ann. § 85-7-407(2). [↑](#footnote-ref-3)
4. Miss. Code Ann. § 85-7-409(2). [↑](#footnote-ref-4)