

Notice and Service

A.C.A. § 18-44-114

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Title 18 Property
Subtitle 4. Mortgages And Liens
Chapter 44 Mechanics' and Materialmen's Liens
Subchapter 1 -- General Provisions

A.C.A. § 18-44-114 (2012)

18-44-114. Notice and service generally.

(a) Every person who may wish to avail himself or herself of the benefit of the provisions of this subchapter shall give ten (10) days' notice before the filing of the lien, as required in § 18-44-117(a), to the owner of a building or improvement that he or she holds a claim against the building or improvement, setting forth the amount and from whom it is due.

(b) (1) The notice may be served by any:

(A) Officer authorized by law to serve process in a civil action;

(B) Person who would be a competent witness;

(C) Form of mail addressed to the person to be served, with a return receipt requested and delivery restricted to the addressee or the agent of the addressee; or

(D) Means that provides written, third-party verification of delivery at any place where the owner of the building or improvement maintains an office, conducts business, or resides.

(2) (A) (i) When served by an officer, his or her official return endorsed on the notice shall be proof of the service.

(ii) When served by any other person, the fact of the service shall be verified by affidavit of the person serving the notice.

(B) (i) When served by mail, the service shall be:

(a) Complete when mailed; and

(b) Verified by a return receipt signed by the addressee or the agent of the addressee, or a returned envelope, postal document, or affidavit by a postal employee reciting or showing refusal of the notice by the addressee or that the item was unclaimed.

(ii) If delivery of the mailed notice is refused by the addressee or the item is unclaimed:

(a) The lien claimant shall immediately send the owner of the building or improvement a copy of the notice by first class mail and may proceed to file his or her lien; and

(b) The unopened original of the item marked unclaimed or refused by the United States Postal Service shall be accepted as proof of service as of the postmarked date of the item.

HISTORY: Acts 1895, No. 146, § 6, p. 217; C. & M. Dig., § 6917; Pope's Dig., § 8876; A.S.A. 1947, § 51-608; Acts 1991, No. 588, § 1; 1999, No. 1466, § 1; 2005, No. 2287, § 5; 2009, No. 454, § 3.