



**First American Title Insurance Company**

## **CONSTRUCTION PACKAGE**

First American Title Insurance Company has compiled the enclosed materials to help you better understand the construction process and to have the necessary documents to submit requests for payment to the builder and subcontractors.

This package includes details for:

- Notice of Commencement
- Waivers of lien
- Sworn statement and how to complete
- Owner/Designee Affidavit
- Submission of Draw requests
- Construction Glossary

### **Sample documents:**

- **Notice of Commencement**
- **Waivers of Lien**
- **Sworn Statement**
- **Owners/Designee Affidavit** *(To be completed & submitted for each draw request)*
- **Notice of Furnishing** *(To be provided to subcontractors/suppliers, upon their request)*
- **Notice of Disbursement** *(To be signed at closing as acknowledgement only)*

**NOTE:** First American Title Insurance Company requires a signed, dated and notarized sworn statement for each draw request and waivers of lien to support all paid items.

If you have questions about the construction draw process, please call The Construction Draw Department at the numbers listed on the enclosed contact sheet



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## ***Construction Draw Department***

134 N First St.  
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Toll Free No. 1-866-950-7231  
[mi.draws@firstam.com](mailto:mi.draws@firstam.com)

### ***Residential*** ***And*** ***Revolving Line of Credit/Commercial***

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Please contact the Construction Department for any draw assistance that you require.

Thank You,  
First American Title Insurance Company

## **NOTICE OF COMMENCEMENT**

### **What is It**

The Notice of Commencement announces that work is about to begin on a home building or remodeling project. It is prepared by the owner or designee whose name and address must be included in the notice. If the improvement is not a residential structure (not to be occupied by the owner), the notice must be given to the General Contractor, must be recorded with the Register of Deeds and a copy of it must be posted on the property where improvements are to be made. If the improvement is a residential structure (to be occupied by the owner), then recording and posting is not required. Remember, this notice is not required by law unless the owner or contractor requests it in writing.

### **What It Contains**

1. A legal description of the property on which the building or improvement is being made.
2. Name and address of the owner of the property, or the agent of the owner who is acting as a responsible party.
3. Name and address of the contractor.

### **What It Indicates**

1. Where the work is being done.
2. Where subcontractors, suppliers and workers are to send their bills for payment.
3. Who the responsible parties are in the contract.

### **What A Homeowner Does with The Notice of Commencement**

1. Files a copy with the Register of Deeds in the county where the property is located before the work begins.
2. Posts a copy at the site where the work is being done.
3. Provides a copy of this form within 10 days to any subcontractor, supplier, or laborer on the job who requests a copy.
4. Keeps a copy for their own records.

### **What A Subcontractor, Supplier or Laborer Does With The Notice of Commencement**

1. Uses the information on the Notice of Commencement to determine where to submit bills for payment.
2. Uses the information to determine who the responsible party is if it becomes necessary to file a Claim of Lien.
3. Uses the information to determine how to file a Claim of Lien against the property.



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## WAIVERS OF LIEN

A Waiver of Lien gives notice that the signer is giving up his right to file a lien, either in full or in part, against the property. The waiver is given by a contractor, subcontractor, supplier, or laborer when payment is made, or as in the case of conditional waivers, when there is a promise to make payment. Waivers are relatively simple to fill out but many builders neglect to take the time to fill them out correctly. Even something as seemingly unimportant as the date can jeopardize the effect of the waiver and cause delays in the disbursement process. The delay of a loan disbursement may cause you to lose valuable discounts. So be sure to use the right form and fill it out completely and accurately.

In Michigan, Waivers of Lien fall into one of the four following categories.

**Full Unconditional Waiver** - states that full payment has been made and that there is no claim or lien against the property. The builder needs to fill in the blanks for owner, builder, type of improvement, and the address of the property being improved. The individual who is being paid will complete the remainder of the blanks. When it is returned to you be sure to make sure that everything is accurately completed and that no dollar amount has been included (a dollar amount will serve to make the full waiver a partial waiver regardless of its title). If the waiver is not complete or is incorrect, return it and have the necessary corrections made.

**Full Conditional Waiver**- states that as soon as full payment is received, or some condition of payment as agreed upon is met, there will be no claim or lien against the property. A Full Conditional Waiver is filled out exactly the same way as the Full Unconditional Waiver. The difference is based on the conditions upon which the waiver becomes valid.

**Partial Unconditional Waiver** - states that some of the money owed has been paid and that for that amount there will be no claim. However, for the amount that is still unpaid a potential claim does exist. The builder needs to fill in the blanks for: owner, builder, type of improvement, and address of the property being improved. The person to whom you have given payment should fill out the rest. Make certain that a dollar amount has been given for the amount being waived and that the date through which the labor/materials have been provided is completed. Secondly, note the sentence, "This waiver, together with all previous waivers, if any, does/does not (circle and initial one) cover all amounts due..." Make sure that one is indeed circled and initialed. If you receive an incomplete waiver, send it back and have it completed correctly.

**Partial Conditional Waiver** - states that as soon as payment is received, the subcontractor or supplier is waiving their right to lien for a specific dollar amount and through the date that the labor or material was provided. This waiver is filled out in the same manner as the Partial Unconditional Waiver except the individual waiving their rights fills in the necessary conditions.



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## **SWORN STATEMENT**

### **What It Is**

The Sworn Statement is an itemized list of all individuals who have provided improvement, materials, or labor, and an accounting of all money due them for supplies or labor.

### **Who Prepares It**

The law requires that a Sworn Statement, which gives a description of all work or materials for which the homeowner is being billed, must be prepared whenever payment is requested by the contractor or subcontractor, or when requested from the owner of the property. The Sworn statement must be accurate as of the date it is signed and notarized. Any attempt to defraud on a Sworn Statement is a criminal offense under Construction Lien Law.

### **Who Receives It**

The homeowner, lender or the party acting on his or her behalf receives it from the contractor. If you are a subcontractor, you must provide a Sworn Statement to the contractor when you request payment.

### **Why It Is Important**

1. To the homeowner- it is a legal record of all items for which you are being billed.
2. To subcontractors, suppliers and laborers - it is a legal record of sums owed to you.

### **Purpose of the Sworn Statement**

If you, as a homeowner, pay the contractor and expect him or her to pay the subcontractors, suppliers or laborers on your project, the Sworn Statement tells you who is owed money, in what amounts, and for what suppliers or work done. This gives you a record of the items for which your contractor is billing you.

If you choose to pay the subcontractors, suppliers, and laborers directly, the Sworn Statement tells you whom to pay and for what amount. The Sworn Statement is a vital document. It provides the Homeowner, Lender and Contractor with periodic reports on the progress of the job and a summary of costs incurred either for wages, for laborers on the job, or for supplies and/or materials.

### **A Sworn Statement Must Be Presented**

1. By a subcontractor or contractor: and
2. By a contractor to the homeowner and/or lender, whenever partial payment is requested or when payment in full is due.

**Homeowner, Please Note:** If you choose to pay a subcontractor, supplier or laborer directly, without obtaining a Sworn Statement, you are taking a risk! Be sure to obtain one before making any payments to avoid having to pay twice if any problems arise later.

### **Responsibility of the Subcontractor And Supplier**

In addition to providing a Sworn Statement whenever you request payment, a subcontractor or supplier must also include a Sworn Statement whenever presenting a Claim of Lien to support the claim, to certify what work has been completed, and what materials were provided and for which payment is currently due.

It is important that Sworn Statements be kept up-to-date at all times and sent periodically so that an accurate record is kept of all work completed and all debts owing on the job.

## COMPLETING A SWORN STATEMENT

1. Start with a blank Sworn Statement and complete the top left portion with the Builder/contractor's name, property owner's name, County and address. Whenever possible include First American Title Insurance Company's file number. A legal description must be attached to the sworn statement with each draw request.

In the first column, "Name, Address & Phone No. of Subcontractor, Supplier or Laborer", list all of the subcontractors, suppliers, and laborers who will be working on the project and their addresses and phone numbers. Due to limited space on the sworn statement, you may attach a separate page with the address and phone number information. This list must have corresponding numbers to the sworn statement line items.

2. Estimate the total cost of the work and/or materials each subcontractor, supplier and laborer will be supplying (or total contract amount). Enter it in the column marked "Total Contract Price."

Name, Address & Phone No. of Subcontractor Supplier or Laborer	Type of Improvement Furnished	Total Contract Price	Adjusted Contract Amount	Amount Already Paid	Amount Currently Owning	Balance to Complete
	Architecture					
	Excavating					
MUST	Sand/Gravel					
	Steel					
BE	Rough Lumber					
	Finish Lumber					
COMPLETED	Rough Carpentry					
	Finish Carpentry					
WITH	Windows/Doors					
	Roofing					
NAMES, ADDRESSES &	Insulation					
	Brick					
PHONE NOS. OF	Mson					
	Siding					
SUBCONTRACTORS	Rough Plumbing					
	Finish Plumbing					
AND	Rough Electrical					
	Finish Electrical					
SUPPLIERS	Drywall Labor					
	Drywall					
	Cement-Inside					
	Cement-Outside					
	Rough Heating					
SUBTOTALS CONTINUED ON REVERSE						

### Sworn Statement Master



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3. Next make enough photocopies of the Sworn Statement so that you will have one copy for each anticipated draw request.
4. 1<sup>st</sup> Sworn Statement. Indicate in the "Current Request" column the exact amount that you are requesting for each subcontractor, supplier and laborer.

Next, for each line item across, subtract the "Current Request" amount from the "Total Contract Price" and enter the amount in the "Balance to Complete" column on the far right. Line items must total across (Total Contract= Current Request+ Balance to Complete) Subtotal the bottom of the first page and show the grand total at the bottom of page 2.

Unconditional Waivers of lien of the appropriate type must be submitted for all the figures in the "Amount Already Paid" column.

After you have completed this portion of the Sworn Statement turn to the back side, sign and date it on the first lines.

Name, Address & Phone No. of Subcontractor Supplier or Laborer	Type of Improvement Furnished	Total Contract Price	Adjusted Contract Amount	Amount Already Paid	Amount Currently Owning	Balance to Complete
	Architecture					
	Excavating					
MUST	Sand/Gravel					
	Steel					
BE	Rough Lumber					
	Finish Lumber					
COMPLETED	Rough Carpentry					
	Finish Carpentry					
WITH	Windows/Doors					
	Roofing					
NAMES, ADDRESSES &	Insulation					
	Brick					
PHONE NOS. OF	Mson					
	Siding					
SUBCONTRACTORS	Rough Plumbing					
	Finish Plumbing					
AND	Rough Electrical					
	Finish Electrical					
SUPPLIERS	Drywall Labor					
	Drywall					
	Cement-Inside					
	Cement-Outside					
	Rough Heating					
SUBTOTALS CONTINUED ON REVERSE						

**1<sup>st</sup> Sworn Statement**



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5. 2<sup>nd</sup> Sworn Statement. Move the figures from the "Current Request" column of 1<sup>st</sup> Sworn Statement to the "Amount Already Paid" column of the 2<sup>nd</sup> Sworn Statement, if you received payment for all of them, otherwise only list the amounts actually received. Now enter the exact amount due at this time to subcontractors, suppliers, and laborers in the "Current Request" column. The total in this column will equal the amount of your second draw. (NOTE: You may adjust the "Total Contract Price" to accurately reflect the amount for that line item.) Unconditional Waivers of lien of the appropriate type must be submitted for the amounts in the "Amount Already Paid" column.

Next, for each line item across, subtract the "Current Request" plus the "Amount Already Paid" amount from the "Total Contract Price" and enter the amount in the "Balance to Complete" column on the far right. Line items must total across (Total Contract= Amount Already Paid + Current Request+ Balance to Complete) Subtotal the bottom of the first page and show the grand total at the bottom of page 2

Name, Address & Phone No. of Subcontractor Supplier or Laborer	Type of Improvement Furnished	Total Contract Price	Adjusted Contract Amount	Amount Already Paid	Amount Currently Ow ing	Balance to Complete
	Architecture					
	Excavating					
MUST	Sand/Gravel					
	Steel					
BE	Rough Lumber					
	Finish Lumber					
COMPLETED	Rough Carpentry					
	Finish Carpentry					
WITH	Window s/Doors					
	Roofing					
NAMES, ADDRESSES &	Insulation					
	Brick					
PHONE NOS. OF	Mson					
	Siding					
SUBCONTRACTORS	Rough Plumbing					
	Finish Plumbing					
AND	Rough Electrical					
	Finish Electrial					
SUPPLIERS	Dryw all Labor					
	Dryw all					
	Cement-Inside					
	Cement-Outside					
	Rough Heating					
SUBTOTALS CONTINUED ON REVERSE						

**2<sup>nd</sup> Sworn Statement**



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6. 3<sup>rd</sup> Sworn Statement. Add the amounts of the "Current Request" column of the 2<sup>nd</sup> Sworn Statement with the "Amount Already Paid" column of the 2<sup>nd</sup> Sworn Statement. Enter these numbers as the new balances in the "Amount Already Paid" column. Now enter the new request in the "Current Request" column just like you did for the previous two Sworn Statements

Name, Address & Phone No. of Subcontractor Supplier or Laborer	Type of Improvement Furnished	Total Contract Price	Adjusted Contract Amount	Amount Already Paid	Amount Currently Owing	Balance to Complete
	Architecture					
	Excavating					
MUST	Sand/Gravel					
	Steel					
BE	Rough Lumber					
	Finish Lumber					
COMPLETED	Rough Carpentry					
	Finish Carpentry					
WITH	Windows/Doors					
	Roofing					
NAMES, ADDRESSES &	Insulation					
	Brick					
PHONE NOS. OF	Mson					
	Siding					
SUBCONTRACTORS	Rough Plumbing					
	Finish Plumbing					
AND	Rough Electrical					
	Finish Electrical					
SUPPLIERS	Drywall Labor					
	Drywall					
	Cement-Inside					
	Cement-Outside					
	Rough Heating					
SUBTOTALS CONTINUED ON REVERSE						

### 3<sup>rd</sup> Sworn Statement

7. Each subsequent Sworn Statement is filled out in the same manner, adding previous "Current Request" to previous "Amount Already Paid", and then filling in the new "Current Request".

NOTE: With each Sworn Statement submitted, please have the owner/contractor sign and date the back side of the Sworn Statement as well as have notarized. The owner/contractor may bring said Sworn Statement to a First American Title Insurance Company Branch to sign and have notarized. If you have any questions, please contact your First American Title Insurance Company Builder Representative. If you have legal questions, please contact your attorney.



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## Owner/Designee Affidavit

***The Owner/Designee Affidavit will need to be completed, signed and notarized and submitted with each request for a construction draw.***

- In response to the changes in the Construction Lien Act, First American is requiring that all draw requests are accompanied by an executed, notarized Owner/Designee Affidavit.
- By executing this form, the owner is stating that they have complied with the responsibilities that the Construction Lien Act has imposed on them.
- Owner is required to:
  - a. Provide copies of the Notice of Commencement upon request by subcontractors and suppliers
  - b. Provide copies of all documents to First American Title that they have received (Notices of Furnishings, Claims of Lien and requests for Notice of Commencement copies)
  - c. Post the Notice of Commencement on the property
  - d. Notify each subcontractor listed on the sworn statement that they have received the sworn statement (for each draw request)
  - e. Verify the signatures on the Waivers of Lien that are submitted by someone other than the person signing the waiver

To fill in BLANKS in order:

1. County
2. Name of Person making and signing this Affidavit
3. Name of the Owner or of the Designee
4. Legal description of the property
5. Dates are for time period from date of previous sworn statement and date of current sworn statement
6. Date of current sworn statement
7. Draw Request Amount from current sworn statement
8. Date of executing the Owner/Designee Affidavit
9. Signature of Owner or Designee
10. Title, if applicable
11. Address of Owner/Designee
12. Notary block

You may review the Acts that have revised the Construction Lien Act at the State of Michigan Department of Labor & Economic Growth website. ([www.mich.gov/conlien](http://www.mich.gov/conlien))

## **Submission of draw requests**

Submission of draw requests and documentation are received by fax at 866-243-0104, by email at [mi.draws@custcare.metropolitantitle.com](mailto:mi.draws@custcare.metropolitantitle.com), by regular mail, or you may drop them off at any First American Title Insurance Company office.

The builder/homeowner must also provide the lender with a copy of the sworn statement. Most lenders will require an inspector to visit the building site and provide an inspection report before any construction funds are released.

## **Sworn Statement**

- A signed, dated, notarized Sworn Statement is required for each draw request.
- The Sworn Statement needs to be completely filled out with:
  - The Name, Address, Phone Number of all subcontractors, suppliers and laborers for all line items (types of improvements)
  - The columns need to balance across and down
  - The Total Cost to Build does NOT have to equal the mortgage amount
  - The Total Cost to Build can be revised/changed as costs go up or down
  - The date of the sworn statement must be a current date (the same executed signature page can NOT be reused)

## **Waivers**

- For all items in the Amount Already Paid column, an Unconditional Waiver is required to be signed and submitted by the subcontractor, supplier or laborer who provided material or performed service for improvement.
- We prefer that First American's Waivers of Lien are used.

## **Items that may hold up the draw process:**

- a. Sworn statement is not signed, dated (with a current date) and notarized
- b. Builder has not submitted waivers of lien for items already paid
- c. Owner/Designee Affidavit has not been executed by homeowner and returned
- d. Property is in a county that is not serviced by a First American office. We rely on independent contractors to search the county records.
- e. A claim of lien has been filed against the property
- f. Lender was not notified of the draw request and the inspection was delayed



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# CONSTRUCTION GLOSSARY

**Claim of Lien:**

Filing a Claim of Lien must be done within 90 days after you last performed work or supplied materials to the job. The Claim of Lien and a proof of service of a Notice of Furnishing (if one was required to be served), is to be recorded at the Register of Deeds in the county in which the improvement is located. Within 1 to 5 days after filing the lien, you must serve a copy of the lien and proof of service on the designee or if none was appointed, the owner. Action to foreclose a lien must be commenced in Circuit Court within one year of recording the lien or the lien becomes unenforceable.

**Construction Lien:**

A right to an interest in Real Property which results from providing a contracted improvement to that property

**Contractor:**

Individual who contracts with a homeowner to build a home or make improvements to the home.

**Designee:**

The designee functions as an intermediary between the lender and borrower. They generally inspect the public records for liens and verify that all requirements have been met.

**Laborer:**

One who provides an improvement through his or her personal labor pursuant to a contract with a contractor or sub-contractor.

**Lien Claimant:**

A person who has the right to claim a lien.

**Notice of Commencement:**

This notice announces that work is about to begin on a home building or remodeling project. It is prepared by the owner or a designee whose name and address must be included in the notice.

**Notice of Furnishing:**

The lien claimant must furnish this notice within 20 days after furnishing the first of his labor and/or materials. Laborers have 90 days to furnish this notice. A Notice of Furnishing is not required of a lien claimant who has a direct contract with the owner, therefore contractors are exempt from this requirement. Claim of Lien must be recorded within 90 days after the lien claimant furnishes the last of this labor and/or material and served the upon the designee, either personally or by certified mail, within 15 days of the recording of the lien.

**Sub-Contractor:**

One who has provided an improvement pursuant to a contract with a contractor or sub-contractor.

**Supplier:**

One who supplies either material or equipment used in an improvement pursuant to a contract with a contractor or subcontractor.

**Sworn Statement:**

The Sworn Statement is an itemized list of all individuals who have provided improvements, materials, or labor, and an accounting of all money due them for supplies or labor.

**Waiver of Lien:**

A Waiver of Lien gives notice that the signer is giving up his right to file a lien, either in full or in part, against the property. The waiver is given by a contractor, subcontractor, supplier, or laborer when payment is made, or as in the case of conditional waivers, when there is a promise to make payment.



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