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The Record BUSINESS

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How a contractor can get a deadbeat to pay

Q. I'm a contractor who installed a heating and ventilation HVAC system in an office building for a tenant and haven't been paid (60 days after the work has been completed). What can I do to ensure I'm not left holding the bag?

The Construction Lien Law is a powerful tool that can be used to ensure your deadbeat account is quickly converted to cash. As long as you have a written contract signed by your customer and the work performed relates to the improvement of real property, you may be able to "lien the job" by filing a construction lien to ensure payment.

If you qualify as a contractor, subcontractor or supplier of materials for the job, you must act

quickly. A construction lien must be filed with the county clerk within 90 days of the completion of your work. Because the lien filing may trigger defaults of your customer's lease with his landlord or with his construction financing lender, these important third parties will effectively be enlisted to help get you paid.

Typically, your customer won't be willing to risk defaulting on his lease or financing arrangements. As such, he will likely be compelled to either satisfy the lien in full or post a bond in the amount of 110 percent of the lien amount. As a result, you would receive immediate payment or be ensured that there is a source of funds from which you can later collect

Because the Construction Lien Law also provides for the recovery of attorneys' fees and costs if your customer asserts bogus defenses, your customer will have much to lose if he attempts to improperly avoid payment. This added disincentive should induce your customer to settle his debts sooner rather than later.

Even when the customer refuses to pay in the face of such mounting pressure, you would still maintain the right to file suit and seek to foreclose on your lien, forcing a sale of the property. This threat would place your customer at the added risk of losing his lease along with his investments in the space.

The construction-lien option

should never be overlooked when you seek the undivided attention of your non-paying customer.

Carl A. Rizzo is a member of the commercial litigation department at Cole, Schotz, Meisel, Forman & Leonard, P.A., the largest law firm in Bergen County, with more than 80 years of service to the community. This is not intended to be legal advice, which can only be provided after an attorney understands the particular facts of each client's circumstances as well as the client's goals and objectives.

Do you have a business question for a lawyer? Send it to BusinessNews@northjersey.com.

LEADS

A listing of new local businesses:

Company	Type	Address	Telephone
Shop Central	Retail merchandise	213 E. Ridgewood Ave., Ridgewood	201-444-0457
Gift Warehouse	Gifts and cards	Wal-Mart Center, 189 Route 46, Saddle Brook	201-843-8101
Lowe's	Home improvement	265 McLean Blvd., Paterson	973-341-8102
Allstate	Insurance	98 Grand Ave., Englewood	201-568-7006
Mop & Broom Cleaning	Janitorial service	8 Coyles Court, Clifton	973-773-3494

Source: InfoUSA