

COMMERCIAL REAL ESTATE BROKER'S LIEN ACT (EXCERPT)
Act 201 of 2010

570.584 Lien; attachment; conditions; recording; time of filing; contents of claim; form; mailing; claim of lien as void and unenforceable; priority of prior-recorded lien or mortgage; "lease" defined.

Sec. 4.

(1) A commercial real estate broker's lien attaches to commercial real estate in favor of a real estate broker if all of the following circumstances exist:

- (a) The real estate broker has a written commission agreement.
- (b) The real estate broker is entitled to a commission under the written commission agreement.
- (c) Except as provided in subsections (3) to (8), the real estate broker records a claim of lien before the actual conveyance of the commercial real estate.

(2) Unless this act specifically provides otherwise, a commercial real estate broker's lien attaches on the date the claim of lien is recorded.

(3) Except as provided in subsections (4) to (6), when payment of a real estate broker's commission is due in installments, 1 or more of which are due after the conveyance of the commercial real estate, a claim of lien for the payments due after the date of the conveyance may be recorded after the date of the conveyance and before the dates on which the payments are due. However, a claim of lien under this subsection shall be recorded within 60 days after the conveyance of the commercial real estate. A lien under this subsection is only effective against the commercial real estate to the extent payment is still owed to the seller by the buyer.

(4) If a real estate broker is owed a commission as a result of a lease, the real estate broker may record a claim of lien any time within 60 days after the lease is signed. Except as provided in subsections (5) and (6), a lien under this subsection attaches after both of the following occur:

- (a) The claim of lien is recorded.
- (b) The lessee takes possession of the leased premises.

(5) If a real estate broker may be owed a commission in the future as a result of an extension of the term or the expansion of the leased premises under an existing lease, a commercial real estate broker's lien attaches after both of the following occur:

(a) A claim of lien is recorded. A claim of lien under this subsection shall be recorded within 60 days after the signing of the existing lease.

(b) The extension or modification of the existing lease is confirmed in writing.

(6) If written notice of the intent to enter into a lease that includes a date on which the lease is intended to be signed is personally served on a real estate broker at least 10 days before the intended date of signing, the real estate broker shall file a claim of lien before the intended date of signing.

(7) If a real estate broker has a written agreement with a potential buyer to act as a buyer's agent, a commercial real estate broker's lien attaches after both of the following occur:

- (a) The buyer purchases or accepts the conveyance of the commercial real estate.
- (b) A claim of lien is recorded.

(8) If a real estate broker may be owed a commission in the future as a result of an option to purchase commercial real estate, the real estate broker may record a claim of lien at any time after the option to purchase is signed and before the transfer or conveyance pursuant to the exercise of the option. A lien attaches under this subsection after both of the following occur:

- (a) The claim of lien is recorded.
- (b) The real estate is transferred or conveyed pursuant to the exercise of the option to purchase.
- (9) A claim of lien shall contain all of the following:

(a) The name and the license number of the claimant.

(b) The name of the owner of the commercial real estate.

(c) The amount for which the lien is claimed.

(d) As an attachment, the legal description of the commercial real estate on which the lien is being claimed.

(e) As an attachment, a legible copy of the written instrument on which the claim for commission or fee is based.

(f) A statement that the information contained in the claim of lien is true and accurate to the knowledge of the signer.

(g) The notarized signature of the real estate broker or a person authorized to sign on behalf of the real estate broker.

(10) A claim of lien recorded under this section shall meet the requirements of 1937 PA 103, MCL 565.201 to 565.203, and be substantially in the following form:

CLAIM OF LIEN

[Name of Broker],) Claim of Commercial Real Estate

Broker-Claimant)

) of Deeds of _____

The broker-claimant named above, whose real estate license number is _____, and whose business address is _____, Michigan, claims a commercial real estate broker's lien under section 4 of the commercial real estate broker's lien act and states:

1. The real property ("property") against which the lien is claimed is located at _____, _____ County, Michigan, and is legally described on Exhibit A attached to this claim. The record owner ("owner") of the property is _____.

3. The broker-claimant, by its agents, provided services for the (owner) (buyer) and is in compliance with the broker-claimant's obligations under the written agreement referred to in paragraph 2.

4. The amount of the commission or fee to which the broker-claimant is entitled is _____.

5. _____ (a) The broker-claimant now claims a lien on the property and all improvements to the property and against all persons interested in the property in the amount of \$_____.

_____ (b) The broker-claimant claims a potential future lien on the property and all improvements to the property and against all persons interested in the property if there is a lease extension or expansion.

_____ (c) The broker-claimant claims a potential future lien on the property and all improvements to the property and against all persons interested in the property if an option to purchase the property is exercised. This lien is only effective if the property is conveyed pursuant to the option to purchase; it may otherwise be disregarded.

6. The information contained in this claim of lien is true and accurate to the best knowledge of the signer.

[Name of Broker]

By: _____

Its Authorized Agent

Signed and sworn to before me in _____ County,
Michigan, on _____, _____ [year].

[Notary's name, county, acting in county, state,
and date commission expires]

Note: This claim of lien is void and unenforceable unless recorded with the register of deeds of the county in which the real estate is located, as required by the commercial real estate broker's lien act.

Prepared By:

Return To:

(11) Within 10 days of recording a claim of lien under this section, the real estate broker shall provide a copy of the claim of lien to the owner of record of the commercial real estate and to the party who signed the written commission agreement by mailing a copy of the claim of lien by registered or certified mail with return receipt requested to the address of the commercial real estate that is the subject of the claim of lien or by personal service. Mailing a copy of the claim of lien is effective as notice under this subsection when deposited in a United States mailbox with postage prepaid. The commercial real estate broker's lien is void and unenforceable if a copy of the claim of lien is not served within the time and in the manner required by this subsection.

(12) A claim of lien not recorded in compliance with this section is void and unenforceable.

(13) A valid prior-recorded lien or mortgage on commercial real estate has priority over a commercial real estate broker's lien. A valid prior-recorded lien or mortgage includes, but is not limited to, both of the following:

(a) A valid construction lien that is recorded after the claim of lien is recorded and that relates back to a date before the claim of lien is recorded.

(b) A lien securing revolving credit and future advances of construction loans that is recorded before the claim of lien is recorded.

(14) As used in this section, "lease" includes a sublease, assignment of a lease, or modification of a lease.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

