

COMMERCIAL BROKER'S LIEN LAW THE NUTS AND BOLTS

1. In order to be entitled to record a lien, you must have earned a commission pursuant to a written commission agreement signed after October 5, 2010.
 - a. Only Michigan licensed brokers (not salespersons) may record liens.
 - b. Cooperating brokers do not have lien rights.
 - c. You cannot record a lien just because you have a listing contract in place, but must also have earned the commission (*i.e.*, found buyer, tenant, etc.).
 - d. A copy of the written commission agreement must be attached to and recorded with a claim of lien.
 - e. The lien must be recorded in the county where the property is located.
2. Property must be commercial property – – includes residential property with more than 4 units.
3. In the traditional sales transaction, a lien must be recorded before the conveyance takes place.
4. In the case of a lease transaction, a claim of lien must be recorded within sixty (60) days after the lease is signed.
5. Within ten (10) days of recording a lien, you must provide a copy of that lien via registered or certified mail to both the owner of the real estate and the party who signed the commission agreement.
6. In most instances, a lawsuit to enforce the lien must be filed within one (1) year after a lien is recorded or the lien is lost.
7. An owner can serve notice on a broker holding a lien demanding that the broker file suit to enforce lien within thirty (30) days or lose its lien rights.
8. If commission amount is escrowed, broker must release lien.
9. There are statutorily-mandated forms that must be used.
10. There are special rules governing liens in connection with option agreements, installment payments for commissions, buyer's agency agreements and lease amendments and extensions.
11. Once a lien is no longer valid, you must record a release no later than five (5) days after receipt of a demand to do so from the owner of the property.

CLAIM OF LIEN

_____)
[Name of Broker],)
) Claim of Commercial Real Estate
Broker-Claimant) Broker's Lien
)
) In the Office of the Register
) of Deeds of _____
) County, Michigan

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 _____ .

2. On _____, 20____, the broker-claimant entered into a written agreement with the (choose one) _____ owner _____ buyer obligating the (choose one) _____ owner _____ buyer to pay a commission to the broker-claimant. **A legible copy of the agreement is attached as Exhibit B.**

3. The broker-claimant, by its agents, provided services for the (choose one) _____ 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. Choose one or more:

_____ (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 _____, 20__.

_____, Notary Public

_____ County, _____

Acting in _____ County, _____

My 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 and When Recorded Return to:

EXHIBIT A

[INSERT LEGAL DESCRIPTION]

EXHIBIT B

[INSERT COPY OF COMMISSION AGREEMENT]

RELEASE OF LIEN

The undersigned is the claimant under a claim of commercial real estate broker's lien recorded on _____, 20__ in the office of the register of deeds of _____ County, Michigan, at Liber _____, Page _____, or at _____ [enter other unique identifying numbers]. The undersigned releases the lien on the following described property:

See attached Exhibit A.

[Name of Broker-Claimant]

By: _____

Its: Authorized Agent

Signed and sworn to before me in _____ County, Michigan, on _____, 20__.

_____, Notary Public

County, _____
Acting in _____ County, _____
My commission expires: _____

Prepared By and When Recorded Return to:

EXHIBIT A

[INSERT LEGAL DESCRIPTION]

PARTIAL SATISFACTION AND RELEASE OF LIEN

The claimant named below is the claimant under a claim of commercial real estate broker's lien recorded on _____, 20__ in the office of the register of deeds of _____ County, Michigan, at Liber _____, Page _____ on the following described property:

See attached Exhibit A.

The claimant has been paid \$ _____, a portion of the amount of the lien. The remaining amount of the lien is \$ _____.

Therefore, the claimant, for and in consideration of the payment, waives, to the extent of the payment, the claim of or right to a lien under the commercial real estate broker's lien act against the property described above, the building or buildings on the property, and the tenant spaces in the building or buildings.

[Name of Broker-Claimant]

By: _____

Its: Authorized Agent

_____, Notary Public

_____ County, _____

Acting in _____ County, _____

My commission expires: _____

Prepared By and When Recorded Return to:

EXHIBIT A

[INSERT LEGAL DESCRIPTION]