

Course Title: Mechanics' Liens: Law & Strategy; NM Course #21010241

Description: Not many know the complexities of this statute, how it violates the general rules of priority, how the statute poses risks to nearly every real estate transaction, the risks brokers have in not handling repair concessions correctly, and how to mitigate the brokers' risk from misrepresentations during repair work. This course address it all. It teaches the essential elements of the ML statute, but more importantly, how the risks arise and how to mitigate those risks for themselves and their clients. The application of title insurance and good contract writing are emphasized.

Learning Objectives:

L1: Students will know the essential elements of the Mechanics' Lien statute and its various provisions.

L2: Students can demonstrate how mechanics' liens create risks in every type of transaction, including resales, new homes and loans.

L3: Students will understand AND communicate the application of title insurance coverages, and its applicability (and cost) to the different types of transactions

L5: Students evaluate the need for title coverage as an indemnity to their own representations (and misrepresentations).

L2: Students can demonstrate how broker priority occurs, the ramifications of lost priority, the risks and costs associated with broken priority.

L5: Students evaluate the risks of MLs in loan transactions, and can communicate those risks to their clients to avoid broker priority.

L3: Students demonstrate the use of bonding over strategies, and use of the Notice of Non-Responsibility in tenancy for the mitigation of lien attachment.

L3: Students demonstrate and communicate strategies for lien avoidance, including careful money management and the use of Affidavits in compliance with the Stop Notice Act.

The following will be the means used in assessing whether the Learned Objectives have been met: Q+A=questions and answers; CS = case study; L = lecture, PP = power point; GD = group discussions; Note: nearly every Power Point slide used in this presentation has one or more fill-ins to encourage and track student participation, comprehension and understanding.

Timed Outline

0-15	Class introduction and review objectives	L; PP
15-30	Theory of the ML law (unjust enrichment) and how it is implemented	L; PP
30-45	Who is entitled to a lien? Discussions of applicability of the law, the need for contractor licenses; the attachment of liens when recorded	L; Q+A; PP; CS
45-60	Residential and commercial notice; original contractor definition	L; PP;
60-75	Preferences over other encumbrances based on the commencement of work and not upon recordation; preferences among lien holders on the same project	L; PP; CS
75-90	The definition of Commencement of activity and establishing priority	CS; L; PP
90-105	Broker priority and the consequences, application to all types of transactions; the 'work of the project' under the statute	L; PP; Q+A; GD
105-120	Broken priority scenarios (4) (resale, construction loans, construction under way, and new home sales	CS; L; Q+A; PP
120-135	Ramifications of broken priority; title insurance coverages and costs; indemnity agreements, financial statements, the costs of TI coverage with/without priority	GD; PP; Q+A
135-150	Additional title insurance issues; working with the WOR form	GD; Q+A; PP
150-165	Lien filing and other provisions of the Statute; how to file a lien; investigating the validity of the lien	PP; L
165-180	Bonding over a lien and creating an opportunity for property transfers after the encumbrance of a lien	L: PP: Q+A
180-195	Uses of the Notice of Non-Responsibility for tenants, ground leases, property management applications; the method of posting	L: PP: CS; GD
195-210	Careful money management strategies, the use of lien waivers and other methods for lien risk mitigation	L: PP: GD
210-225	Additional consumer protections and strategies	GD; PP; Q+A
225-240	Explanation of and use of Affidavits under the NM Stop Notice Act as a way of mitigating risk; review objectives	L: PP: Q+A; GD