

THE BOTTOM LINE

Atlantic Coverage Corp.

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EXCELLENCE IN SURETY BONDS

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NYS Mechanic's Lien Laws

Lien Laws were put into effect with the purpose of protecting the rights of subcontractors and material providers on construction projects. Basically anyone who performs labor or furnishes material for private and public improvement has lien rights. However, there is a limit as to how far this protection is provided. Only first and second tier subcontractors and certain materialmen are able to lien projects. Any subcontractors or material providers further down the line will not be protected by a lien.

Liens can be on Private Improvement projects or Public Improvement Projects. When a lien is placed against a private project it attaches to the real property. On public improvements, where property being improved is owned by the state or another public entity, the FUNDS set aside for the project (not the Property itself) are being liened.

There are a few items you should be aware of immediately when you have had a lien placed against you or you are considering placing a lien against someone else.

If you are considering placing a lien on a project, please note that if you had signed what is called a "Lien Waiver" prior to starting your project, by statute, this has NO legal force in effect. In other words, if you signed such a document it does not hamper your rights to lien the project. Also, because of this law, a subcontractor's agreement that is not entitled to payment unless the prime is paid, is void as against public policy. If the public project you are liening is bonded, you are also covered under the payment bond (provided you take the proper steps to place your claim on the bond) and do not actually need to lien the project. This allows the withheld funds to be paid to the contractor. You do not have to lien the project to be covered under a payment bond. If you decide to lien a public project anyway you should be aware

that the Owner is required to hold 1-1/2 times the amount of the lien against the contractor you are liening. If a release of lien bond is provided to the Owner from the contractor, with whom you have a dispute, the owner will then substitute the bond in place of the funds being liened.

You should also note that your lien only attaches to money due or to become due from the owner to the contractor. If you are late in filing your lien and the owner has paid most of the contract funds to the contractor and the remaining dollars are not sufficient to cover your lien, you will not be able to collect the full amount of your lien.

Contractors on a non-residential project can file a private improvement lien within 8 months from the last date labor was performed or material was supplied by the lienor. Such a lien is valid for one year from the filing date and then automatically terminates UNLESS you extend the lien or take other legal actions. Public Improvement liens must be filed within 30 days from the date of completion and final acceptance of the project as a whole by the public owner. Public liens are also valid for one year from the date of filing and are automatically terminated unless renewed. Due to recent changes in the law both private and public liens can now be extended for only three years.

However, within the lien law is Article 3-A known as the trust fund statute. In very general terms this basically states that the funds on a project are to be used specifically for improvement of the project. Basically the money for the project is set aside as a Trust. The dollars in that Trust must be used for the benefit of the project before anything else, even the contractor's profit. This means that a contractor would have to return his mark-up to the extent bills at the end of the job exceed the contract balance. To the extent funds have been used for other than trust purposes, there has been an unlawful diversion of trust funds. Do not think that your rights as a trust fund beneficiary give you an excuse not to file a lien.

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"Famous Quotes"

"The American people have now spoken, but it's going to take a little while to determine exactly what they said.."

Bill Clinton

"Exultation is that feeling you get just after a great idea hits you, and just before you realize what's wrong with it."

Unknown

"Politics is supposed to be the second oldest profession. I have come to realize that it bears a very close resemblance to the first."

Ronald Reagan

"The most important thing in communication is to hear what isn't being said."

Peter F. Drucker

Marketing Your Construction Firm For Tomorrow

"When I was a boy I was told that anybody could become President.. I'm beginning to believe it.."

Clarence Darrow

"Failure is the opportunity to begin again, more intelligently."

Henry Ford

"I just received the following wire from my generous Daddy: Dear Jack, Don't buy a single vote more than is necessary. I'll be damned if I'm going to pay for a landslide."

John F. Kennedy

"I can live for two months on a good compliment."

Mark Twain

"A good plan executed right now is far better than a perfect plan executed next week."

George S. Patton

"It's not whether you get knocked down. It's whether you get up again."

Vince Lombardi

"When I was a kid my parents moved a lot but I always found them."

Rodney Dangerfield

As the first quarter of the new-year has come and gone, it is now time for all business owners to begin looking at whether they are in a position to grow. Almost all of our clients, at one time or another, have stated that they are looking for growth. However, when asked how they planned on growing, many realize that they have not taken the time to plan and market their company. This not only creates a barrier against growth, it limits the company from realizing maximum profits.

What is your marketing plan? Do you even have a marketing plan or are you currently working on one? How often are you evaluating and changing your marketing plan? Many owners mentioned that they advertise in publications and feel that this is enough to help grow their company. But, are you advertising in the right publications? Is your ad designed to attract clients that are seeking your services?

Hopefully this article will help provide construction firms with the necessary tools to market their firms using various techniques. These techniques should help to improve your visibility and help your company grow.

You might be asking yourself, why is marketing so important to me? The construction industry is getting more competitive every day. A key questions you may ask is "What will make my firm better than my competitors?"

The first step is to define exactly what is marketing. Marketing is about two things: 1) letting your prospects, (CM, engineers, etc.) know you are there, the quality of your work and what you have to offer; and 2) to separate you from your competition.

When discussing marketing for construction firms, we must divide this idea into two sections. One for construction firms that perform services to private owners and those that constantly bid on public work. While the selection of a contractor for each project is basically different, the idea of marketing your construction firm is not.

For private projects, many construction firms negotiate their price with an owner. While price is an important factor in determining the awarding of a project, it is even more important for the owner to see that your firm is capable of performing the job at hand. There are several ways that construction firms in the private sector can help market their firm and win more projects at higher profit levels:

1. Develop a brochure that includes reference letters on previous projects, and pictures of projects before and after.
2. Provide owners with resumes of key employees that will work on future projects. This will provide the owner the comfort level that just might put your firm over the top in terms of obtaining more projects.

Owners are not only looking for the lowest price. Most owners are willing to spend more money to insure that a project is performed within the time frame needed. Many owners will look for contractors that will provide value added service that might not be included in your competitors' price.

To acquire public works projects, contractors need to be the lowest responsible bidder in order to get awarded a project. This does not mean that marketing is not needed to help these contractors grow. Contractors on public projects must work hard to insure that their marketing efforts are not wasted. The most important marketing tool you have is your workmanship. Company owners should be visible at all job sites from time to time to insure that project managers and staff members are performing the necessary work properly. One of the most important marketing tools that many construction firms often overlook is how their employees conduct themselves at the job site. If one of your employees does not communicate or work well with others, then all the money and time spent on a marketing plan will not help you to rebuild your company's reputation.

Repeat business is a very important marketing tool. Most company owners, whether they do public or private work, realize if they do quality work, in a timely manner and within budget, they will be asked to return. From the project owner's prospective, once they find a good contractor, they will want to have them do more projects for them. This, in time, will undoubtedly help in the growth of your company.

Marketing your firm should be a team effort. Everyone in your organization plays an important role in the success of your company. If your company works on only a few of these important techniques, it is inevitable that your company will grow.

Analyze Your Life Insurance Needs

Life Insurance is a difficult topic to discuss because it involves thinking about your own mortality and what might happen to your loved ones if you were not alive. It is an insurance policy that you, personally will not benefit from. You will be dead. Life insurance is for your loved ones.

Your life insurance needs will vary depending on your age and family situation. For instance, usually the fewer dependants, the less insurance that is needed. Other items come into play as well, such as your standard of living, the standard of living that you wish your loved ones to maintain, net worth, liquidity and other sources of income.

There are various rules of thumb. The most prevalent is eight times annual income. Using this rule of thumb, a person with \$200,000 in Income, should have \$1,600,000 in Life Insurance.

We feel that it is better to analyze your financial position and determine what it is you want the life insurance to do or to pay for. For example,

the life insurance proceeds can be used to pay off a mortgage, to provide for the life income for your spouse, to provide for your children's education or to provide monthly income until your children are grown.

The amount of life insurance needed may be much larger than originally contemplated. One million dollars (\$1,000,000) in insurance may sound like a sufficient amount. However, if the proceeds are invested conservatively to protect the principal, at an interest rate of 5%, this will only generate \$50,000 in annual income.

The following table is only to be used for discussion purposes. It gives you an idea as to what the annual premium payments might be for various term life insurance policies for a Male, Preferred Plus Non-Tobacco Class with William Penn Life Insurance Company. For more information, please call Peter Johnston at our office (516) 682-5000.

Male, Preferred Plus Non-Tobacco Class

Issue Age	RIGHTTerm 10 \$500,000	RIGHTTerm 10 \$1 Million	RIGHTTerm 15 \$500,000	RIGHTTerm 15 \$1 Million	RIGHTTerm 20 \$500,000	RIGHTTerm 20 \$1 Million
35	\$185	\$310	\$240	\$390	\$320	\$550
45	\$375	\$680	\$575	\$1,060	\$785	\$1,500
55	\$955	\$1,750	\$1,405	\$2,650	\$3,910	\$7,690
65	\$2,615	\$4,920	\$5,140	\$10,130	N/A	N/A

The annual male, term life insurance premiums shown above are based on underwriting approval as a preferred plus non-tobacco risk and a \$250,000 premium band, respectively. \$50 non-commissionable annual policy fee included. RIGHTTerm 10 issue ages 20-75. RIGHTTerm 15 issue ages 20-65. RIGHTTerm 20 issue ages 20-55. Premiums increase annually after guarantee period. Rates as of 1/15/2001. Policy form T-RC-IP/97. Issued by William Penn Life Insurance Company of New York, Garden City, NY. Available only in NY. For agent/broker use

NYS Mechanic's Lien Law cont. from pg 1

Beneficiaries get what's left after all mechanics liens have been paid. Therefore, if you are having a problem getting paid, file your lien immediately. When you are facing a situation of deciding to place a lien or responding to a lien placed against you, remember to consider what was mentioned above. Is it a Public or Private Improvement? What is the amount being considered? How far into the contract have you progressed? Is there a Performance and Payment bond in place? Most of all, especially if there is a sizable lien to consider, consult with an attorney familiar with these situations. We have just touched upon the general

terms of the lien law and release of lien bonds. There are many other factors that can play a part in your decision making process since each case is individual of another. For your own best interest you should consult with your bond agent and attorney should you find yourself in such a situation.

For the purposes of this article everything is based on NY state lien laws. I would also like to thank C. Allan Reeve of the law firm Goldberg & Connolly for his valued input regarding this article.

TAKE ADVANTAGE OF A SPECIAL OFFER FOR ALL ACC CLIENTS

Atlantic Coverage has an exclusive offer for our clients. For a limited time, ALL-Tech Creative Design is offering a \$100.00 discount off of their regular website package prices for Atlantic Coverage clients. With packages starting as low as \$250.00 (after discount), there may never be a better time to establish a World Wide Web presence! If you are interested in getting your company on the web, give ALL-Tech a call today at: (516) 682-8322 and tell them that you are an Atlantic Coverage client.

"Success is steady progress toward one's personal goals."

Jim Rohn

"My interest is in the future because I am going to spend the rest of my life there."

Charles F. Kettering

"We cannot become what we need to be by remaining what we are."

Max Du Pree

"The future belongs to those who believe in the beauty of their dreams."

Eleanor Roosevelt

"All lasting business is built on friendship."

Alfred A. Montapert

"My most brilliant achievement was my ability to be able to persuade my wife to marry me."

Winston Churchill

"A bride at her second marriage does not wear a veil. She wants to see what she is getting."

Helen Rowland

"My wife dresses to kill. She cooks the same way."

Henny Youngman

Can We Help Someone You Know With Their Bonding?

If you think we can help someone you know with their bonding needs, please call us at (516) 682-5000. These referrals fuel Atlantic Coverage Corp.'s growth and success.

Company News

Atlantic Coverage Corp. is pleased to announce the addition of Kathleen Amato to our staff. Kathleen brings 8 years of experience at handling Court and Fiduciary Bonds. Kathleen will be responsible for handling the Commercial Surety business including Court and Fiduciary, License and Permit, and other Miscellaneous Surety Bonds.

In addition, Louis J. Spina, President of Atlantic Coverage Corp., co-authored an article for the Surety Information Office regarding the hardening surety market. This article re-enforced a presentation that both Louis J. Spina and Scott Brackenbury, from Safeco Surety, presented to local CPAs in the region.

Louis J. Spina Appointed to Business Advisory Council

United State Rep. Tom DeLay, R-TX., announced that Louis J. Spina, President of Atlantic Coverage Corp. has been appointed to serve on the Business Advisory Council (BAC) in recognition of valuable contributions and dedication to the Republican Party. DeLay, who serves as the Chairman of the BAC, said Mr. Spina will serve the State of New York and is expected to play a crucial role in the Party's effort to involve top business people in the process of government reform. The BAC is part of the National Republican Congressional Committee, and is dedicated to making sure that small business has a voice in Washington. "Mr. Spina, who has long supported Republican ideals, particularly debt reduction and tax reform, will be a key member of the Council," said DeLay.

Letter from the Editorial Staff

This newsletter is designed with our readers in mind. All inquires and ideas regarding this or future newsletters are appreciated. Please send all inquires to me at anthony@esuretybond.com. If you know anyone who you feel would like a copy of our newsletter, please let us know so that we can include them in our mailing list. Also, please let us know if you would like to receive this newsletter via e-mail.

Disclosure

The Bottom Line is published quarterly by Atlantic Coverage Corp., 6800 Jericho Tpke., Suite 212E, Syosset, NY 11791. Telephone (516) 682-5000. A service for our clients, contacts and friends, it is meant to provide useful business information and practical advice and encourage its readers to keep up with all the latest developments. These articles are not intended to provide a complete discussion of the subjects presented. Because each situation is unique, we advise you to contact us before acting upon any of the following information or planning ideas contained in this newsletter. Any questions you might have about any topics mentioned in this newsletter, please contact our office.

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