

Payment Bond Deadline Summary

<u>Jurisdiction</u>	<u>Bond Claim Notice</u>	<u>Lawsuit to Enforce</u>
Federal Government Project	Notice must be <u>received</u> by bond principal (general contractor) delivered by third party with verification of delivery within 90 days of claimant’s last work.	Must be filed more than 90 days after claimant’s last work, but within one year of claimant’s last work.
Virginia Public Project	Notice must be <u>received</u> by bond principal by certified or registered Mail within 90 days of claimant’s last work (no notice deadline for funds held as retention).	Must be filed more than 90 days after claimant’s last work, but within one year of claimant’s last work.
Maryland Public Project	Notice must be <u>received</u> by bond principal (general contractor) by certified mail within 90 days of claimant’s last work.	Must be filed more than 90 days after claimant’s last work, but within one year after <u>government accepts</u> completed project from general contractor.
District of Columbia Gov’t Project	Must be <u>received</u> by bond principal (general contractor) by certified or registered mail within 90 days of claimant’s last work.	Must be filed more than 90 days after claimant’s last work, but within one year of claimant’s last work.
Pennsylvania Public Project	Must be <u>received</u> by bond principal (general contractor) by certified mail within 90 days of claimant’s last work. No bond rights once the GC has paid subs in full.	Must be filed more than 90 days after claimant’s last work, but within one year of claimant’s last work. There is a Defense of Payment under the bond.
<p>General Notes:</p> <ul style="list-style-type: none"> • Be sure to check the language of the bond form itself. Public project bond forms may provide more rights under the bond than required by law. Private project bond forms may contain additional or different requirements and restrictions. • The bond laws apply to public projects by the federal government, each state, cities, towns, counties and their agencies. • The bond claim notice is not required if you had a contract directly with the bond principal (usually the general contractor). This would make you a “First Tier Subcontractor.” • There is no defense of payment for public payment bond claims, except in Pennsylvania. The general contractor must make sure that all covered subcontractors and suppliers have been paid. Only First Tier and Second Tier Subcontractors have bond rights in all these states, except Maryland, where bond rights are extended to First, Second, and <u>Third</u> Tier Subcontractors. • Second Tier materialmen (a supplier to a supplier) does not have bond rights. • Notice must state amount of your claim with “substantial accuracy” and the name of the person you with whom you contracted and state affirmatively that claimant seeks payment from general contractor and bonding company. • The safest practice is to count your deadline from the date of last SUBSTANTIAL and NEW WORK. Trivial items, repairs, and warranty work may not extend your deadline. 		

See *Construction Law Survival Manual* for more information at **WWW.FULLERTONLAW.COM**

James D. Fullerton, Clifton, VA (703) 818-2600