

## **RELEASE OF LIEN BONDS**

**Please be advised that once a release of lien bond is written, premium is due annually until the bond is released by the court.**

### **REQUIREMENT FOR RELEASE OF A RELEASE OF LIEN BOND AND/OR RELATED COLLATERAL**

In order to close our liability or release collateral being held for a Release of Lien bond, the bond itself has to be release and the following steps have to be followed:

1. A court certified copy of the lien showing Claimant has release  
**OR**
2. Principal's attorney must send certified notice of intent to file an Order for Discharge to the party who filed the original lien
3. Once 30 days has expired without any response by the claimant, Attorney must file Order for Discharge with the court and get it signed by the court
4. Once court order is signed, we need a copy of the signed order to forward to Surety

Once we forward the signed order to Surety, we must wait for them to forward permission to us to release the collateral.

I hereby acknowledge and agree to the above procedures.

By: \_\_\_\_\_

Date: \_\_\_\_\_

**HOW TO GET A RELEASE OF LIEN BOND CLOSED OUT WITH SURETY**

The Statutes posted are current through the 2001 Regular Session of the General Assembly. However, the Statutes posted from the 2001 Regular Session may not yet be in effect. Users of this service should note that the effective date of the Statutes are not listed on this service and are advised to verify the effective date of any Statutes posted on this Web Site. Any person or entity who relies on information obtained solely from this Site does so at his or her own risk.



44-14-367 G  
\*\*\* CODE SECTION \*\*\* 08/27/01

44-14-367.

(a) In the event no notice is filed with the clerk of the superior court as is required by paragraph (3) of subsection (a) of Code Section 44-14-361.1 within 14 months from the time the claim became due, the owner of the real estate improved may file with the clerk of the superior court in the county in which the property is located a request to have the lien marked void of record. Said request shall be accompanied by an affidavit from an attorney licensed to practice law in Georgia that certifies the attorney has searched the superior court records in the county in which the property is located, that according to information received from the superior court clerk's office the indexes of real property transactions are current through a date more than 12 months from the date the lien claimant's claim became due, and that the records do not reflect that notice has been filed as is required by this Code section. A copy of said request shall be forwarded by the owner to the lien claimant by registered or certified mail or statutory overnight delivery to the address specified in the original filing for record of his or her claim of lien prior to filing the request, and a copy of the return receipt showing that the lien claimant has received a copy of the request shall be filed with the superior court clerk at the time the request is filed. If the lien claimant is no longer at the address specified in his or her original claim of lien and the owner cannot reasonably locate the lien claimant, the owner may file an affidavit so stating in lieu of a return receipt. The lien claimant shall have 30 days from the date of the filing of the request with the superior court clerk to object in writing to the request on the basis that the proper notice was timely filed. A copy of the objection shall be sent to the owner by registered or certified mail or statutory overnight delivery at the time the lien claimant files such objection with the superior court clerk. If the lien claimant so objects, the clerk shall not mark the lien void and either party may seek relief in the superior court through a declaratory judgment action. In the event no objection is filed with the superior court clerk within 30 days after the filing of the request, the superior court clerk is directed, upon subsequent request of the owner of the real estate, to release any bond filed and to mark the lien void of record by writing or marking on said lien the following language:

"This lien is void of record pursuant to Code Section 44-14-367 of the Official Code of Georgia Annotated."

(b) Subsection (a) of this Code section shall not be construed to prevent any interested party from seeking judicial relief at any time based upon allegations that a claim of lien is void as a matter

of law for failure to comply with the requirements of this part or from seeking the release of any bond filed pursuant thereto. Further, subsection (a) of this Code section shall not extend the legal effect of any claim of lien which is otherwise void due to the failure of the lien claimant to comply with the requirements of this part.



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44-14-364 G  
\*\*\* CODE SECTION \*\*\* 08/27/01

44-14-364.

(a) When any person entitled under this part to claim a lien against any real estate located in this state files his lien in the office of the clerk of the superior court of the county in which the real estate is located, the owner of the real estate or the contractor employed to improve the property may, before or after foreclosure proceedings are instituted, discharge the lien by filing a bond in the office of that clerk. The bond shall be conditioned to pay to the holder of the lien the sum that may be found to be due the holder upon the trial of any action that may be filed by the lienholder to recover the amount of his claim within 12 months from the time the claim becomes due. The bond shall be in double the amount claimed under that lien and shall be either a bond with good security approved by the clerk of the court or a cash bond, except in cases involving a lien against residential property, in which event the bond shall be in the amount claimed under the lien. Upon the filing of the bond provided for in this Code section, the real estate shall be discharged from the lien. With respect to property bonds, the clerk shall not accept any real property bond unless the real property is scheduled in an affidavit attached thereto setting forth a description of the property and indicating the record owner thereof, including any liens and encumbrances and amounts thereof, the market value, and the value of the sureties' interest therein, which affidavit shall be executed by the owner or owners of the interest; the bond and affidavit shall be recorded in the same manner and at the same cost as other deeds of real property. So long as the bond exists, it shall constitute a lien against the property described in the attached affidavit.

(b) The clerk of the superior court shall have the right to rely upon the amount specified in the claim of lien in determining the sufficiency of any bond to discharge under this Code section. The failure to specify both the amount claimed due under the lien and the date said claim was due shall result in such lien not constituting notice for any purposes.

