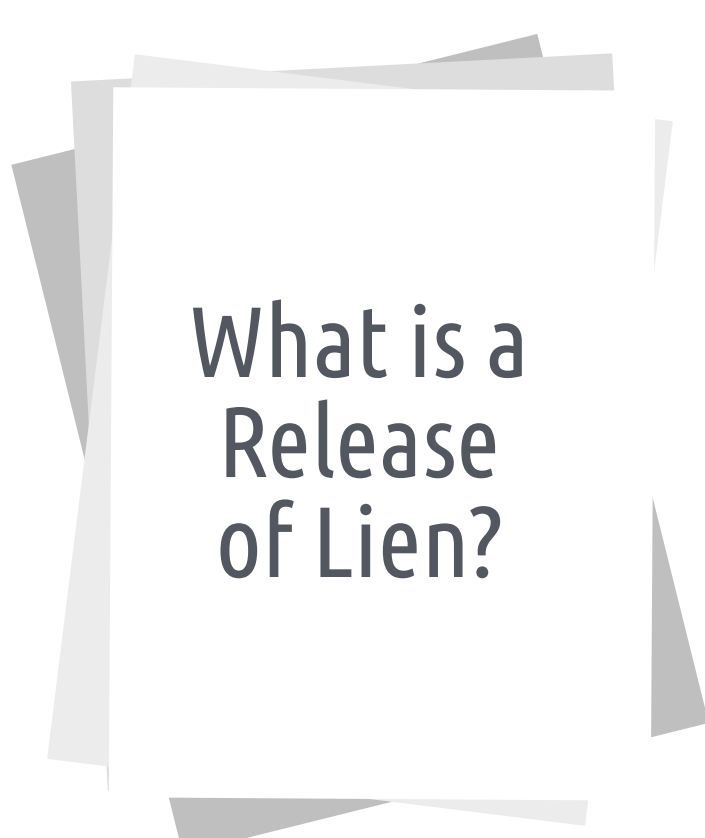


Before you release that mechanic's lien...



What is a Release of Lien?

A release of lien is a document recorded upon the satisfaction of a claim of lien. Statutory penalties may be incurred if a lien is not released upon satisfaction.

Did you have to file a mechanic's lien because you were not paid timely for materials or labor you provided to a construction project? Then, ultimately, once you have been paid and the payment has cleared, you will need to release that lien.

Answer YES to these two questions

Once you have made the decision to file a mechanic's lien, the next decision you will need to make is whether to proceed with suit or release the lien. Before you rush to release your security, you should ask yourself: "Have I been paid in full? Has the payment cleared?"

"Have I been paid in full?"

"Has the payment cleared?"

"Do not pass go, do not collect \$200"



If you have not been paid in full and/or the payment has not cleared, you should be VERY cautious. Think of the proverbial, "do not pass go, do not collect \$200".

If you release the mechanic's lien, and you have not received/cleared full payment, you may forfeit your security and subsequent recourse on unpaid funds.

Questions?

"I've been paid... do I have to release the lien right away?"

Some states have a specific frame listed within their statute, but a good rule of thumb is to promptly release a lien once the lien has been satisfied. Not only is a timely release of the satisfied lien required by law, it's also a respectful business process.

"Do I have release of lien options?"

In some states, you can file a partial release of lien. A partial release of lien is just what it sounds like - you are releasing a portion of the original mechanic's lien, as opposed to the full amount of the mechanic's lien.

Make sure you consult an attorney before proceeding with a partial release of lien. You want to ensure you are adhering to statute and not forfeiting your lien rights.

"What if my customer agrees to pay me, but only if I release the lien?"

It is not uncommon to Exchange a Release of Lien for Payment. Essentially, you will give your customer the executed (but not recorded) release of lien, and your customer will give you payment in certified funds. Then you can deposit the payment and your customer can record the release of lien.

Although an "exchange for release of payment" is fairly common, it is important to utilize an impartial intermediate party - to keep everyone honest!



BEST PRACTICE

This information is provided with the understanding that the publisher is not engaged in rendering legal advice. NCS recommends retaining an attorney for each case.



Do you have questions about releases?
Want to ensure you are within your rights?

Contact NCS Credit Today!

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