Lien Waivers are common in construction credit & one of the most misunderstood and misused documents.

Lien Waivers ...more than just a piece of paper.

There are four primary types of lien waivers...

1. Partial Conditional — A signed document agreeing to waive rights to a claim for a dollar amount or through a specified date, conditioned upon receipt and clearance of the partial payment.

2. Final Conditional — A signed document agreeing to waive rights to a claim, conditioned upon receipt and clearance of a final payment.

3. Partial Unconditional — A signed document agreeing to waive rights to a claim for a dollar amount or through a specified date. The waiver is not conditioned upon clearance of a payment.

4. Final Unconditional — A signed document agreeing to waive all rights to a claim. The waiver is not conditioned upon clearance of a final payment.

Conditional lien waivers are preferred!

Conditional waivers are preferred, because the "conditions" provide the creditor with leverage, in the event payment is not received or does not clear.

Conditional — If the contractor/ subcontractor/ supplier does not get the payment, or the payment does not clear, the waiver does not waive their rights.

Unconditional — If the check is not received, or does not clear, the contractor/ subcontractor/ supplier will have waived their rights to the payment

Are lien waiver requirements the same in all states?

Arizona, California, Colorado, Florida, Georgia*, Massachusetts, Michigan,

Mississippi*, Missouri, Nevada, Texas, Utah, Wyoming*

(MO: residential projects)

*Lien waivers in Georgia, Mississippi, and Wyoming, should be notarized.

The majority of states don't require a particular lien waiver format. However, there are some states with statutory requirements.

It's crucial you understand the verbiage, potential remedies & potential consequences of lien waivers, prior to signing the document.

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