

all LIEN WAIVERS aren't the same

Conditional or Unconditional

There are four primary types of lien waivers: partial conditional, final conditional, partial unconditional, and final unconditional.

Conditional

If you execute a conditional lien waiver, and your customer fails to pay you or payment doesn't clear, the waiver becomes null/void and a lien may be filed.

Unconditional

If you execute an unconditional lien waiver, you waive your lien rights, regardless of whether you receive payment and/or payment clears.

Conditional lien waivers are preferred, because the conditions provide leverage in the event payment is not received or doesn't clear.

Partial

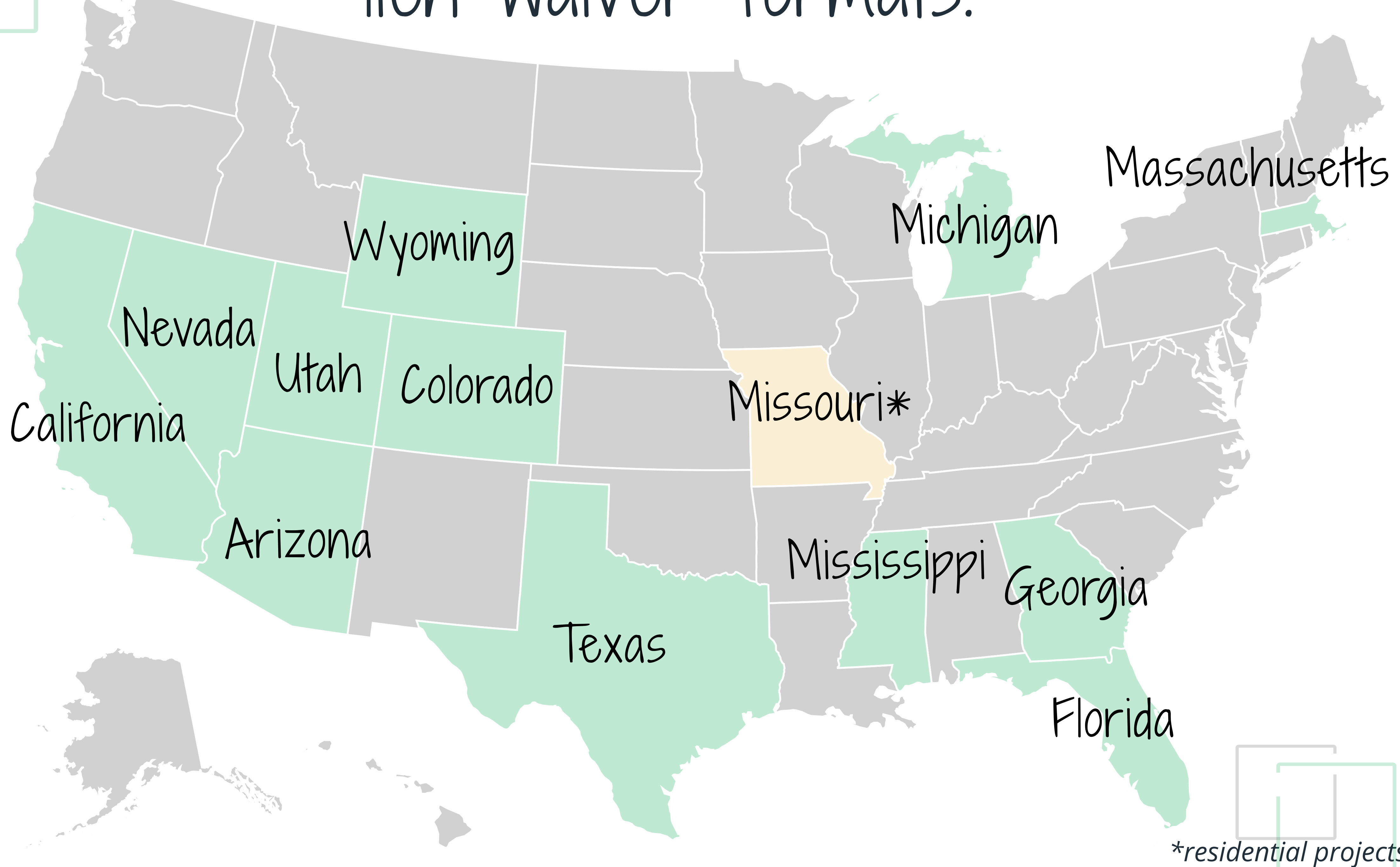
The waiver specifies a dollar amount or a certain time period.

Final

The waiver covers final payment.

In most states, you can use a general lien waiver template. But be careful, more than a dozen states have format requirements dictated by statute.

These states require **statutorily specific** lien waiver formats.



Question

Do lien waivers have to be notarized?

Answer

Yes - in three states, lien waivers must be notarized.

GA

Georgia lien waivers require a witness and corporate seal.

Corporate seals aren't common, fortunately, a notary can be used in lieu of a seal!

(See: [O.C.G.A. § 44-14-366](#).)

MS

Final lien waivers must be notarized twice in Mississippi.

That's right, the waiver must be signed & notarized, and then signed a notarized a 2nd time.

(See [Miss. Code Ann. § 85-7-433](#).)

WY

Why not, Wyoming?

Wyoming rounds out our list of states with notarization requirements for lien waivers.

(See [Wyo. Stat. § 29-10-101](#).)

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**Although the statutory waivers in Georgia & Mississippi appear to be conditioned upon the receipt of funds, if the waiver is given and payment is not received, an Affidavit of Non-Payment must be recorded.

Lien Waiver Contents

Generally, you should clearly identify the following:

the project name & address

your customer

the invoice or purchase order #s

the payment amount & any disputed claim amount

If the lien waiver is for partial payment, you should also include the payment period or a through date.

Question

Is a lien waiver the same as a release of lien?

Answer

No - a lien waiver acknowledges receipt of payment; a release of lien releases a previously recorded document.

When in doubt, don't sign!

As a best practice, don't sign any document without first having the document reviewed by a legal professional. Signing the wrong document could jeopardize your right to file a mechanic's lien or to make a claim against a payment bond.

NCS Credit provides clients with access to **free** lien waivers within NCS Online Services.



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