

**State-by-State Lien Matrix**

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Alabama	Yes	<p>Upon notification by the court of the security transfer, lien claimant has ten days to challenge the sufficiency of the bond amount or the surety. The court’s determination is final.<sup>1</sup></p> <p>Lien claimant must take action “within six months after the maturity of the entire indebtedness.”<sup>2</sup></p>	<p>The value of the bond must equal the “amount demanded in such claim of lien plus interest thereon at eight percent per year for three years plus \$100.00.”<sup>3</sup></p>	None	<p>May recover attorney’s fees.<sup>4</sup></p>	No <sup>5</sup>

<sup>1</sup> ALA. CODE § 35-11-233(b)(2).

<sup>2</sup> *Id.* §§ 35-11-233(e) and 35-11-221.

<sup>3</sup> *Id.* § 35-11-233(b)(2).

<sup>4</sup> *Id.* § 35-11-233(c).

<sup>5</sup> *Noland Co. v. Southern Dev. Co., Inc.*, 445 So. 2d 266, 270 (Ala. 1984).

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Alaska	Yes	None specific to the time on which a bond claim may be made; however, a lien will only bind real property for six months after the claim of lien is recorded, unless an action is commenced in the proper court within that time or six months after the recording of an extension notice. <sup>6</sup>	150% of the claim amount <sup>7</sup>	None	None	Yes. Party may waive lien rights for work or materials furnished up to that date. <sup>8</sup> However the waiver “may not relate to labor, materials, services, or equipment furnished after the date the waiver is signed by the claimant.” <sup>9</sup> Actual laborers (i.e. natural persons) may not waive their lien rights, however. <sup>10</sup>
Arizona	Yes	Suit must be commenced within six months after recording of bond. <sup>11</sup>  Lien claimant must name principal and surety as parties to lien foreclosure suit within six months of recording of lien or 90 days of receiving bond notice, whichever is longer. <sup>12</sup> ari	150% of the claim amount <sup>13</sup>	Lien claimant must be served within a reasonable time. <sup>14</sup>	May recover attorney’s fees. <sup>15</sup>	No. Party waiving lien rights must execute a waiver and release form. <sup>16</sup>

<sup>6</sup> ALASKA STAT. § 34.35.080(a).

<sup>7</sup> *Id.* § 34.35.072.

<sup>8</sup> *Id.* § 34.35.117(a).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* §§ 34.35.117(b) and 34.35.120(10).

<sup>11</sup> ARIZ. REV. STAT. ANN. § 33-1004(D)(1).

<sup>12</sup> *Id.* § 33-1004(D)(2).

<sup>13</sup> *Id.* § 33-1004(B).

<sup>14</sup> *Id.* § 33-1004(C).

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Arkansas	Yes	Lien claimant must challenge the bond within three days of receiving notice. <sup>17</sup>  Lien claimant must take action on the bond within 15 months after recording of lien. <sup>18</sup>	“[I]n the amount of the lien claimed.” <sup>19</sup>	The circuit clerk or other officer before whom the bond is filed must notify the lien claimant of the filing of the bond. <sup>20</sup>	May recover attorney’s fees. <sup>21</sup>	No
California	Yes	Lien claimant must take action on the bond within six months after notice of the bond is given. <sup>22</sup>	125% of the claim amount or 125% of the allocated claim amount to be released. <sup>23</sup>	Must provide notice by certified or registered mail. <sup>24</sup> Failure to provide notice will toll the statutes of limitations. <sup>25</sup>	May not recover attorney’s fees in an action on a bond absent a direct contract between the claimant and the owner providing for attorney fees. <sup>26</sup>	Yes. <sup>27</sup>

<sup>15</sup> *Id.* § 33-998(B).

<sup>16</sup> *Id.* § 33-1008(A).

<sup>17</sup> ARK. CODE. ANN. § 18-44-118(b).

<sup>18</sup> *Id.* §§ 18-44-118(c)(1) and 18-44-119.

<sup>19</sup> *Id.* § 18-44-118(a)(1)(A).

<sup>20</sup> *Id.* § 18-44-118(b)(1).

<sup>21</sup> *Id.* § 18-44-128.

<sup>22</sup> CAL. CIV. CODE § 8424(d).

<sup>23</sup> *Id.* § 8424(b).

<sup>24</sup> *Id.* § 8106. Further notice requirements are provided in §§ 8100 through 8118.

<sup>25</sup> *Id.* § 8424(d).

<sup>26</sup> Michael J. Jurkovich and Amanda Glenn Hebesha, *California Construction and Design Law*, in ABA GUIDE 95, 119–20. See *Royster Constr. Co. v. Urban West Communities*, 47 Cal. Rptr. 684 (Cal. Ct. App. 1995) (attorneys’ fees unrecoverable in action on mechanics’ lien release bond); *Wilson Heating & Air Conditioning v. Wells Fargo Bank*, 202 Cal. App. 3d 1326, 1330 (1988).

<sup>27</sup> CAL. CIV. CODE § 8124 (specifying the conditions under which lien waiver and releases may be made and the waivers and releases that must be signed, all of which relate to waiving or releasing lien rights on activities to date). See also Michael J. Jurkovich and Amanda Glenn Hebesha, *California Construction and Design Law*, in ABA GUIDE 95, 119.

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Colorado	Yes	Lien claimant must take action on the bond within six months of the completion of work. <sup>28</sup>	150% of the claim amount, plus costs <sup>29</sup>	None	Must be approved by judge. <sup>30</sup>	No <sup>31</sup>
Connecticut	Yes	Lien claimant must take action on the bond within one year of the lien being perfected. <sup>32</sup>	Claim amount, plus interest and costs. <sup>33</sup>	Judge shall order reasonable notice be given. <sup>34</sup>	Must be approved by judge. <sup>35</sup>  May recover attorney's fees. <sup>36</sup>	Yes <sup>37</sup>
Delaware	Yes.	The security posted in lieu of cash may, upon cause shown and upon petition of any party after notice and hearing, be decreased in amount or exonerated by the Court. <sup>38</sup>	The amount of the bond must be approved by the court, but the amount approved may not be less than the amount equal to the amount of the claim. <sup>39</sup>	None	Must be approved by court. <sup>40</sup>	Yes. <sup>41</sup> May only waive right to file lien with or after payment. <sup>42</sup>

<sup>28</sup> COLO. REV. STAT. §§ 38-22-133; 38-22-110.

<sup>29</sup> *Id.* § 38-22-131(2).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* § 38-22-119.

<sup>32</sup> CONN. GEN. STAT. § 49-37(a).

<sup>33</sup> *Id.*; *but see id.* § 42-158o (stating that a surety is not obligated to pay interest, costs, penalties, or attorney fees imposed unless the bond's terms expressly reference the sections providing for such payments and state that the surety is obligated to make such payments).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> CONN. GEN. STAT. § 52-249; *but see id.* § 42-158o (stating that a surety is not obligated to pay interest, costs, penalties, or attorney fees imposed unless the bond's terms expressly reference the sections providing for such payments and state that the surety is obligated to make such payments).

<sup>37</sup> *Id.* § 42-158l.

<sup>38</sup> DEL. CODE ANN. tit. 25 § 2729(d).

<sup>39</sup> *Id.* § 2729(c).

<sup>40</sup> *Id.* § 2729(d).

<sup>41</sup> *Id.* § 2706(b).

<sup>42</sup> *Id.*

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
District of Columbia	Yes	No bond may be approved without giving at least five days notice to the bond claimant. The claimant may voice their objections to the bond upon the court’s consideration of the principal’s motion to approve said bond. <sup>43</sup>	Claim amount, plus interest and costs. <sup>44</sup>	Lien claimant must receive five days notice prior to seeking bond approval. <sup>45</sup> The notice must contain the name and residence of the person to be offered as surety. <sup>46</sup>	Bond must be filed with one or more sureties. <sup>47</sup>  The filing of the bond must be approved by court. <sup>48</sup>	No <sup>49</sup>
Florida	Yes	Lien claimant must take action on the bond within one year of the lien’s recording. <sup>50</sup>	Claim amount and interest for three years, plus \$1,000 or 25% of the claim amount, whichever is greater. <sup>51</sup>	Upon the filing of the bond, the clerk will mail a copy of the certificate showing the transfer of the lien to the bond. <sup>52</sup>	May recover attorney’s fees. <sup>53</sup>	Yes. Lien rights may not be waived in advance. Lien rights to labor, services, or materials already furnished may be waived, however. <sup>54</sup>

<sup>43</sup> D.C. CODE § 40-303.16.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* § 40-303.02.

<sup>50</sup> FLA. STAT. §§ 713.22 & 713.24 (4).

<sup>51</sup> *Id.* § 713.24.

<sup>52</sup> *Id.* § 713.24(1)(b).

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* § 713.20.

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Georgia	Yes	Lien claimant must take action on the bond within one year of the lien's filing. <sup>55</sup>	200% of the claim amount, unless the property is the owner's domicile, in which case the bond shall be equal to the amount of the claim. <sup>56</sup>	Must provide notice by certified, registered, or statutory overnight mail within seven days of filing bond. <sup>57</sup>	The lien will not be discharged until the bond is approved by the court. <sup>58</sup>	Yes <sup>59</sup>
Hawaii	Yes	Lien claimant must take action on the bond within three months of the lien's recording. <sup>60</sup>	200% of the claim amount. <sup>61</sup>	None	Attorney fees may be awarded by the court. <sup>62</sup>	No <sup>63</sup>
Idaho	Yes	Lien claimant must take action on bond within six months of lien's recording. <sup>64</sup>	150% of the claim amount. <sup>65</sup>	Must provide notice at least two days prior to the hearing. <sup>66</sup>	May recover attorney's fees. <sup>67</sup>  Must be approved by court. <sup>68</sup>	No <sup>69</sup>

<sup>55</sup> GA. CODE ANN. § 44-14-364(a).

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* § 44-14-366.

<sup>60</sup> HAW. REV. STAT. § 507-43(e).

<sup>61</sup> *Id.* § 507-45.

<sup>62</sup> *Id.* § 507-47.

<sup>63</sup> Tred R. Eyerly et al, *Hawaii Construction and Design Law*, in ABA GUIDE 275, 286 (stating that no custom exists for the use of “no lien” contracts and that scrutinization of Hawaii’s common law would be necessary to determine enforceability).

<sup>64</sup> IDAHO CODE ANN. § 45-510.

<sup>65</sup> *Id.* § 45-519.

<sup>66</sup> *Id.* § 45-520(3).

<sup>67</sup> *Id.* § 45-519.

<sup>68</sup> *Id.*

<sup>69</sup> Though there is not an anti-advance lien waiver statute, Idaho courts have declared advance lien waivers to be unenforceable unless supported by consideration. James L. Martin and Tyler J. Anderson, *Idaho Construction and Design Law*, in ABA GUIDE 291, 305.

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Illinois	No <sup>70</sup>	None	None	None	None	Yes <sup>71</sup>
Indiana	Yes	May not bond over lien until foreclosure action has commenced. <sup>72</sup>  Lien claimant must file a complaint to enforce a lien within one year of the lien's recording. <sup>73</sup>	Claim amount, plus costs and attorney's fees. <sup>74</sup>	None	May recover attorney's fees. <sup>75</sup>  Must be approved by the court. <sup>76</sup>	Yes <sup>77</sup>
Iowa	Yes	Lien claimant must bring action on bond within two years and ninety days after materials were furnished or labor was performed last. <sup>78</sup>	200% of the claim amount. <sup>79</sup>	None	Must be approved by the clerk. <sup>80</sup>	No <sup>81</sup>
Kansas	Yes	Lien claimant must bring action on bond within one year of lien's recording <sup>82</sup>	At least the amount of the contract price. <sup>83</sup>	None	Must be approved by the court. <sup>84</sup>	Yes <sup>85</sup>

<sup>70</sup> In February of 2011, a bill was introduced into the Illinois legislature which would permit bonding over a mechanics' lien. As of September 2012, this bill had not been passed. See 2011 IL S.B. 1564 (NS), 2011 Illinois Senate Bill No. 1564, Illinois Ninety-Seventh General Assembly - First Regular Session

<sup>71</sup> 770 ILL. COMP. STAT. 60/1(d).

<sup>72</sup> IND. CODE § 32-28-3-11.

<sup>73</sup> *Id.* § 32-28-3-6.

<sup>74</sup> *Id.* § 32-28-3-11

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* § 32-28-3-16.

<sup>78</sup> IOWA CODE § 572.27.

<sup>79</sup> *Id.* § 572.15.

<sup>80</sup> *Id.*

<sup>81</sup> *See id.* § 572.13.

<sup>82</sup> KAN. STAT. ANN. § 60-1105.

<sup>83</sup> *Id.* § 60-1110.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.* § 16-1803.

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Kentucky	Yes	Must bond over lien prior to judgment enforcing the lien. <sup>86</sup>  Lien claimant must take action on bond within one year of lien's recording. <sup>87</sup>	200% of claim amount. <sup>88</sup>	None	Must be approved by the clerk. <sup>89</sup>	Yes <sup>90</sup>
Louisiana	Yes <sup>91</sup>	Lien claimant must take action on bond within one year after filing the statement of claim or privilege to preserve it. <sup>92</sup>	125% of the claim amount. <sup>93</sup>	Must provide notice by certified mail. <sup>94</sup>	May recover attorney's fees. <sup>95</sup>	No
Maine	Yes	Bond must be paid out within 30 days of final judgment. <sup>96</sup>	Claim amount, plus costs. <sup>97</sup>	Judge issues notice at least 10 days prior to hearing on whether the lien shall be released in favor of a bond in the amount determined by the court to be potentially owed. <sup>98</sup>	Must be approved by the court. <sup>99</sup>	No

<sup>86</sup> KY. REV. STAT. ANN. § 376.100.

<sup>87</sup> *Id.* § 376.090.

<sup>88</sup> *Id.* § 376.100.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* § 371.405(2)(b).

<sup>91</sup> LA. REV. STAT. ANN. §§ 9:4823 & 9:4822.

<sup>92</sup> *Id.* § 9:4823(B).

<sup>93</sup> *Id.* § 9:4835.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> ME. REV. STAT. ANN. tit. 10, § 3263.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*



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Maryland	Yes	The right to enforce a lien will expire at the end of one year from the day on which the petition to establish the lien was first filed. During this time, the lien claimant may file a petition to execute on a bond given to release the lien. If an action is filed within that time period, the bond will remain in force until the conclusion of that action and, thereafter, only in accordance with a Court order. <sup>100</sup>	Amount determined by the court. <sup>101</sup>	None	Must be approved by the court. <sup>102</sup>	Yes <sup>103</sup>
Massachusetts	Yes	Lien claimant must take action on bond within 90 days of receiving notice of bond. <sup>104</sup>	Claim amount <sup>105</sup>	Notice of recording the bond must be given to the lien claimant by serving a copy of the notice and a copy of the bond. <sup>106</sup>	Specified, statutory form to use for the bond. <sup>107</sup>	Yes <sup>108</sup>

<sup>100</sup> MD. CODE ANN., REAL PROP. § 9-109.

<sup>101</sup> Md. Rule 12-307(b).

<sup>102</sup> *Id.*

<sup>103</sup> MD. CODE ANN., REAL PROP. § 9-113 (applying to executory contracts between contractors and subcontractors that are related to construction, alteration, or repair of a building, structure, or improvement).

<sup>104</sup> MASS. GEN. LAWS ch. 254, § 14.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.* § 32. Advance lien waivers may or may not be allowed under Massachusetts law depending upon the party being asked to make the waiver. *See, e.g.*, Todd L. Tisdale, Ann M. Sobolewski, and Wendy K. Thomas, *Massachusetts Construction and Design Law*, in ABA GUIDE 493,510.

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Michigan	Yes	Lien claimant has 10 days to appeal the sufficiency of the surety on the bond following notification. <sup>109</sup>	200% of the claim amount. <sup>110</sup>	County clerk must notify each lien claimant within 10 days after the bond's filing. <sup>111</sup>	None	Yes <sup>112</sup>
Minnesota	Yes	After the commencement of an action by either the lien claimant or the owner, anyone with an interest in the property may apply to the court for a release. <sup>113</sup>  Lien claimant must take action on bond with one year of lien's filing. <sup>114</sup>	The value of the bond set by the court shall not be less than the aggregate of the following: (1) the amount claimed in the lien statement, (2) \$18 for every \$100 or fraction thereof, to cover interest, (3) the probable disbursements in an action to enforce the claim for which the lien statement was filed, (4) an amount not less than double the amount of attorneys' fees allowed upon the foreclosure under section 582.01, to cover any allowance the court may make upon the trial for costs and attorneys' fees in the action or upon appeal. <sup>115</sup>	Lien claimant must receive notice at least ten days prior to application for bond. <sup>116</sup>	May recover attorney's fees. <sup>117</sup>	Yes <sup>118</sup>

<sup>109</sup> MICH. COMP. LAWS § 570.1116(2).

<sup>110</sup> *Id.* § 570.1116(1).

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* § 570.1115(1).

<sup>113</sup> MINN. STAT. § 514.10.

<sup>114</sup> *Id.* § 514.221(3)(a).

<sup>115</sup> *Id.* § 514.10.

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Mississippi	No	None	None	None	None	No <sup>119</sup>
Missouri	Yes, but only with respect to certain residential property. <sup>120</sup>	An action must be commenced within six months after filing the lien, and prosecuted without unnecessary delay to final judgment. <sup>121</sup>	150% of the amount of the lien being released. <sup>122</sup>	None	The lien-bond provisions only apply to “residential real property,” which generally means residential dwellings of four units or less. <sup>123</sup>	Yes <sup>124</sup>
Montana	Yes	Contracting owner of any interest in the property may bond over a lien prior to filing of lien foreclosure action or within 30 days of notification of foreclosure action. <sup>125</sup>  Lien claimant must take action on the bond within two years of filing the lien. <sup>126</sup>	150% of the claim amount. <sup>127</sup>	None	Must be approved by court. <sup>128</sup>  May recover attorney’s fees. <sup>129</sup>	Yes <sup>130</sup>

<sup>116</sup> *Id.*  
<sup>117</sup> *Id.*  
<sup>118</sup> *Id.* § 337.10.  
<sup>119</sup> Rod Clement and Bo Harwell, *Mississippi Construction and Design Law*, in ABA GUIDE 581, 591 (stating that contracts with advance waivers are not common practice and probably would not be enforceable).  
<sup>120</sup> MO. REV. STAT. § 429.016.  
<sup>121</sup> *Id.* § 429.170; *see id.* at § 429.016(22) (filing of bond to release lien does not affect time in which suit for enforcement must be filed).  
<sup>122</sup> *Id.* at 429.016(17).  
<sup>123</sup> *See id.* at 429.016(2).  
<sup>124</sup> *Id.* § 429.005.  
<sup>125</sup> MONT. CODE ANN. § 71-3-551(1).  
<sup>126</sup> *Id.* §§ 71-3-553 and 71-3-562.  
<sup>127</sup> *Id.* § 71-3-551(2).  
<sup>128</sup> *Id.*

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Nebraska	Yes	Lien claimant must take action on bond no later than two years after the lien's recording. <sup>131</sup>	115% of the claim amount. <sup>132</sup>	None	Bonding party must file certificate with clerk of the district court verifying bond deposit. <sup>133</sup>	No <sup>134</sup>
Nevada	Yes	Lien claimant must bring action on the bond within nine months of when the lien claimant was notified that the surety bond was recorded. <sup>135</sup>	150% of the claim amount. <sup>136</sup>	Notice requirements will vary depending on when the bond is filed. <sup>137</sup>	None	Yes <sup>138</sup>
New Hampshire	No <sup>139</sup>	None	None	None	None	No

<sup>129</sup> *Id.* § 71-3-551(3).

<sup>130</sup> *Id.* § 28-2-723.

<sup>131</sup> NEB. REV. STAT. § 52-140(1).

<sup>132</sup> *Id.* § 52-142(1)(a).

<sup>133</sup> *Id.* § 52-142(b).

<sup>134</sup> *Id.* § 52-144 (stating that a written lien waiver signed by the claimant does not require consideration and is effective even if issued before the contracting or furnishing of materials and/or services).

<sup>135</sup> NEV. REV. STAT. § 108.2421(2)(b)(1).

<sup>136</sup> *Id.* § 108.2415(1).

<sup>137</sup> *Id.* § 108.2415(4).

<sup>138</sup> *Id.* § 108.2453(2)(a).

<sup>139</sup> While N.H. Rev. Stat. § 511:48 provides that, upon written petition, a court may order a bond to be provided to have an attachment in real estate released, multiple New Hampshire Superior Courts have not permitted bonding over a lien.

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
New Jersey	Yes	Lien claimant must begin an action against the bond within one year of when the claimant first performed its work or within 30 days following written notice sent by certified mail or personal service from the owner that requires the claimant to commence an action to establish the lien claim. <sup>140</sup>	110% of claim amount, plus \$25. <sup>141</sup>	None	A lien claimant who forfeits a lien by failing to commence a timely action and fails to discharge the lien of record, may be liable for the other party's attorneys' fees. <sup>142</sup>	Yes <sup>143</sup>
New Mexico	Yes	Lien claimant must take action on bond no later than two years after lien claim is filed. <sup>144</sup>	Determined by the court, but the amount must be sufficient to cover damages, court costs, and attorney's fees. <sup>145</sup>	None	May recover attorney's fees. <sup>146</sup>  Must be approved by the court. <sup>147</sup>	No
New York	Yes	Lien claimant must make claim on bond within eight months of final performance <sup>148</sup> and take action within one year of filing claim on bond. <sup>149</sup>	An amount directed by the court, but not less than the amount unpaid. <sup>150</sup>	None	Must be approved by the court. <sup>151</sup>	Yes <sup>152</sup>

<sup>140</sup> N.J. STAT. ANN. § 2A:44A-14.

<sup>141</sup> *Id.* § 2A:44A-31.

<sup>142</sup> *Id.* at 2A:44A-14.

<sup>143</sup> *Id.* § 2A:44A-38.

<sup>144</sup> N.M. STAT. § 48-2-10.

<sup>145</sup> *Id.* § 48-2-9(B).

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> N.Y. LIEN LAW § 10(1).

<sup>149</sup> *Id.* § 17.

<sup>150</sup> *Id.* § 37(1).

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
North Carolina	Yes	Lien claimant must take action on bond within 180 days after last furnishing of labor or materials. <sup>153</sup>	125% of claim amount. <sup>154</sup>	None	May recover attorney's fees. <sup>155</sup>	Yes <sup>156</sup>
North Dakota	Yes	Lien claimant has 7 days in which to file an exception to the sufficiency of the sureties with the clerk. <sup>157</sup>  Lien claimant must take action on bond within 30 days upon written demand of the owner or within three years after the lien's recording. <sup>158</sup>	Claim amount, plus all costs. <sup>159</sup>	Lien claimant (or its agent or attorney) must receive notice personally or by registered mail. <sup>160</sup>	Must be brought with two sureties. <sup>161</sup>	No <sup>162</sup>

<sup>151</sup> *Id.* § 37(4).

<sup>152</sup> *Id.* § 34.

<sup>153</sup> N.C. GEN. STAT. § 44A-13(a).

<sup>154</sup> *Id.* § 44A-16(a)(6).

<sup>155</sup> *Id.* § 44A-35.

<sup>156</sup> *Id.* § 44A-12(f).

<sup>157</sup> N.D. CENT. CODE § 35-21-04.

<sup>158</sup> *Id.* § 35-27-25.

<sup>159</sup> *Id.* § 35-21-02(3).

<sup>160</sup> *Id.* § 35-21-03.

<sup>161</sup> *Id.*

<sup>162</sup> See *First Union Nat. Bank v. RPB 2, LLC*, 674 N.W.2d 1, 4–5 (N.D. 2004)

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Ohio	Yes	Lien claimant must take action on the bond within six years of the lien's filing. <sup>163</sup>	If the claim is \$5,000 or less, the value of the bond must be 200% of claim amount. For claims exceeding \$5,000, the bond amount must be 150% of claim amount. <sup>164</sup>	Upon application to the court of common pleas for the approval of the bond, notice of a hearing regarding that application must be given to the lienholder or its agent. <sup>165</sup>	May recover attorney's fees. <sup>166</sup>  Filing the bond requires court approval. <sup>167</sup>	No
Oklahoma	Yes	Lien claimant must provide objection to county clerk within 10 days of being notified of the bond. <sup>168</sup>  The lien claimant must take action on the bond within 10 years of receiving notification. <sup>169</sup>	125% of the claim amount. <sup>170</sup>	County clerk must notify the lien claimant of the bond within three business days of posting. <sup>171</sup>	Attorney's fees may be recovered. <sup>172</sup>	No

<sup>163</sup> OHIO REV. CODE ANN. § 1311.13(C).

<sup>164</sup> *Id.* § 1311.11(C)(1).

<sup>165</sup> *Id.* § 1311.11(C)(1).

<sup>166</sup> *Id.* § 1311.16.

<sup>167</sup> *Id.* § 1311.11(C).

<sup>168</sup> OKLA. STAT. tit. 42, § 147.1.

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Oregon	Yes	Lien claimant must take action on bond within 120 days after lien's filing. <sup>173</sup>  A bond may be filed at any time after the filing of the claim of lien. <sup>174</sup>	150% of the claim amount or \$1,000, whichever is greater. <sup>175</sup>	Must provide notice of the filing of the bond and a copy thereof to the lien claimant within 20 days after bond filing. <sup>176</sup>	May recover attorney's fees. <sup>177</sup>	No
Pennsylvania	Yes	If the contractor has posted a bond guaranteeing payment for labor and materials provided by subcontractors, then the right to file a lien in the first place may be waived. <sup>178</sup>	Bond or Other Security Deposit: Sum equal to 200% the amount of the required cash deposit, or such lesser amount approved by the Court, must be deposited. <sup>179</sup>  Cash Deposit: Sum equal to the amount of the claim must be deposited. <sup>180</sup>	After notice and hearing, a court may order that the amount of the cash or other security deposited be increased or decreased, allow security to be substituted, and/or take other actions. <sup>181</sup>	None	Yes. <sup>182</sup>

<sup>173</sup> OR. REV. STAT. §§ 87.055 & 87.083.

<sup>174</sup> *Id.* § 87.076(3).

<sup>175</sup> *Id.* § 87.076(1).

<sup>176</sup> *Id.* § 87.078(1).

<sup>177</sup> *Id.* § 87.076(1).

<sup>178</sup> 49 PA. STAT. ANN. § 1401.

<sup>179</sup> *Id.* § 1510(d).

<sup>180</sup> *Id.* § 1510(a).

<sup>181</sup> *Id.* § 1510(e).

<sup>182</sup> *Id.* § 1401. Waivers are still permitted to the extent they occur after: (1) payment has been received; or (2) the contractor has posted a bond guaranteeing payment. *Id.*



State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Rhode Island	Yes	Bond may be filed only after lien claim is filed. <sup>183</sup> Where no lien foreclosure suit has been commenced at the time of the bond's filing, the lien claimant must take action on the bond within 40 days of the lien's filing. <sup>184</sup> Where a lien foreclosure suit is pending, the lien claimant has 60 days to amend their suit and include the surety as a defendant. <sup>185</sup>	Claim amount, plus costs, interest, and attorney's fees. <sup>186</sup>	None	May recover attorney's fees. <sup>187</sup>	Yes <sup>188</sup>
South Carolina	Yes	Lien claimant must take action on bond within six months of last work performed. <sup>189</sup>	133% of the claim amount. <sup>190</sup>	None	May recover attorney's fees, to be determined by the court. <sup>191</sup>	Yes <sup>192</sup>

<sup>183</sup> R.I. GEN. LAWS § 34-28-17(a).

<sup>184</sup> *Id.* §§ 34-28-10(a) & 34-28-17(b)(1).

<sup>185</sup> *Id.* § 34-28-17(b)(2).

<sup>186</sup> *Id.* § 34-28-17(a).

<sup>187</sup> *Id.*

<sup>188</sup> *Id.* § 34-28-1(b).

<sup>189</sup> S.C. CODE ANN. §§ 29-5-110 & 29-5-120.

<sup>190</sup> *Id.* § 29-5-110

<sup>191</sup> *Id.* §§ 29-5-10(a) & 29-5-20(A).

<sup>192</sup> *Id.* § 29-7-20(2).

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
South Dakota	Yes	Lien claimant must take action on bond within one year of lien's discharge. <sup>193</sup>	200% of the claim amount, to cover interest and costs. Must be executed by at least two sureties. <sup>194</sup>	Must serve notice to lien claimant at least 10 days prior to bond application. <sup>195</sup>	None	No <sup>196</sup>
Tennessee	Yes	Lien claimant must take action on bond within one year after abandonment or completion of work. <sup>197</sup>	Claim amount <sup>198</sup>	None	None	Yes <sup>199</sup>
Texas	Yes	Lien claimant must take action on bond within one year of notice of bond or after the date on which the underlying lien claim becomes unenforceable. <sup>200</sup>	200% of the claim amount for claims totaling \$40,000 or less.  If the claim is for more than \$40,000, then the bond must be the greater of: (1) 150% of the claim amount; or (2) the claim amount plus \$40,000. <sup>201</sup>	County clerk must provide notice to lien claimant(s) after the bond's filing. <sup>202</sup>	The court "shall award costs and reasonable attorney's fees as are equitable and just." With respect to claims arising out of residential construction contracts, the award of attorneys' fees is within the court's discretion. <sup>203</sup>	Yes, with certain exceptions. <sup>204</sup>

<sup>193</sup> S.D. CODIFIED LAWS § 44-4-8.

<sup>194</sup> *Id.* § 44-4-3.

<sup>195</sup> *Id.* § 44-4-5.

<sup>196</sup> *Cf. id.* § 44-9A-1.

<sup>197</sup> TENN. CODE ANN. § 66-11-106.

<sup>198</sup> *Id.* § 66-11-142(a).

<sup>199</sup> *Id.* § 66-11-124(b).

<sup>200</sup> TEX. PROP. CODE ANN. §§ 53.175 and 53.158 .

<sup>201</sup> *Id.* § 53.172(a).

<sup>202</sup> *Id.* § 53.173.

<sup>203</sup> *Id.* §§ 53.156.

<sup>204</sup> *Id.* § 53.282(a). Advance lien waivers are permissible on certain residential projects, provided that certain conditions are met. *See id.*

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Utah	Yes	<p>If suit is pending at time of bond filing, lien claimant must take action on bond within 90 days of receiving notice.<sup>205</sup></p> <p>If suit is not pending at time of bond filing, the lien claimant shall have six months after discovery of notice to take action on the bond, except that no action may be commenced after two years from the date the notice was recorded.<sup>206</sup></p>	<p>150% of the claim amount for claims of \$25,000 or more. 175% of the claim for claims of at least \$15,000 but less than \$25,000. 200% of the claim amount for claims of less than \$15,000.<sup>207</sup></p>	<p>Must provide notice to lien claimant no later than 30 days after the bond's filing.<sup>208</sup></p>	<p>May recover attorney's fees.<sup>209</sup></p>	<p>Yes.<sup>210</sup></p>
Vermont	Yes	<p>Lien claimant must take action on bond within 180 days of lien's filing.<sup>211</sup></p>	<p>Amount to be determined by judge.<sup>212</sup></p>	<p>None</p>	<p>Must be approved by court.<sup>213</sup></p>	<p>Yes<sup>214</sup></p>

<sup>205</sup> UTAH CODE ANN. § 38-1a-804(4)(b).

<sup>206</sup> *Id.* § 38-1a-804(6).

<sup>207</sup> *Id.* § 38-1a-804(2)(c)(ii)(A) through (C).

<sup>208</sup> *Id.* § 38-1a-804(4)(a).

<sup>209</sup> *Id.* § 38-1a-804(2)(c)(iv)(B).

<sup>210</sup> *Id.* § 38-1a-105.

<sup>211</sup> VT. STAT. ANN. tit. 9, § 1924.

<sup>212</sup> VT. R. CIV. P. 4.1(e)(2).

<sup>213</sup> *Id.*

<sup>214</sup> VT. STAT. ANN. tit. 9, § 1921(f).

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Virginia	Yes.	The bond may be filed either before or after a suit is brought to enforce the lien. <sup>215</sup>	If a bond is deposited, then the amount is 200% the amount of the lien plus the costs of the suit. <sup>216</sup> If cash is deposited, then the amount must equal a sum sufficient to discharge the lien plus the costs of suit. <sup>217</sup>	After five days notice to the lienor, the general contractor or other party in interest may apply for permission to pay into the court a sufficient amount of money or to file a bond. <sup>218</sup>	None	No. <sup>219</sup>
Washington	Yes	Bond may be filed either before or after the commencement of an action to enforce a lien in the county where the lien was recorded. <sup>220</sup>  Action to recover on the bond must be taken within eight months of when the lien is recorded, or the bond will be discharged. <sup>221</sup>	If the lien is \$10,000 or less: The bond must be in an amount equal to the greater of \$5,000 or two times the amount of the lien claimed. <sup>222</sup>  If the lien is greater than \$10,000: The bond must be in an amount equal to or greater than 150% the amount of the lien. <sup>223</sup>	None	The surety providing the bond must be listed in the latest federal department of the treasury list of surety companies acceptable on federal bonds. <sup>224</sup>	No.

<sup>215</sup> VA. CODE ANN. §§ 43-70 & 43-71.

<sup>216</sup> *Id.* § 43-70.

<sup>217</sup> *Id.*

<sup>218</sup> *Id.* §§ 43-70 & 43-71

<sup>219</sup> *Id.* § 43-3(C); *see also* Neil S. Kessler & Lile T. Trice, *Virginia Construction and Design Law*, in ABA GUIDE 1051, 1060 (stating that consideration was required for a lien waiver to be valid).

<sup>220</sup> WASH. REV. CODE. § 60.04.161.

<sup>221</sup> *Id.* §§ 60.04.161 & 60.04.141.

<sup>222</sup> *Id.* § 60.04.161.

<sup>223</sup> *Id.* § 60.04.161.

<sup>224</sup> *Id.* § 60.04.161.

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
West Virginia	Yes	Owner must record the contract and the bond in the office of the county commissioner's clerk in the county where the project is located prior to the start of construction. <sup>225</sup>	The amount of the contract price. <sup>226</sup>	None	None	No. <sup>227</sup>
Wisconsin	Yes	The timing proceeds as though no bond had been filed. <sup>228</sup> If no action to foreclose the lien is brought within two years of filing a claim for lien, the clerk will return the bond to the party filing or depositing it. <sup>229</sup>	125% of the claim amount. <sup>230</sup>	Either the person against whom the lien is claimed or the person depositing the bond must serve the lien claimant notice of the filing of the bond stating where and when the security was deposited. <sup>231</sup>	None	No. <sup>232</sup>

<sup>225</sup> W. VA. CODE. §§ 38-2-22 & -23.

<sup>226</sup> *Id.*

<sup>227</sup> James R. Snyder & Ellen S. Cappellanti, *West Virginia Construction and Design Law*, in ABA GUIDE 1091, 1104 (citing *Bauer Enters., Inc. v. Frye*, 382 S.E.2d 71 (W. Va. 1989) (recognizing the possibility of waiver)).

<sup>228</sup> Wis. Stat. § 779.08(4).

<sup>229</sup> *Id.* §§ 779.08(5) & 779.06(1).

<sup>230</sup> *Id.* § 779.08(1) & (2).

<sup>231</sup> *Id.* § 779.08(3).

<sup>232</sup> *Id.* § 779.05.

State	Bonding Over Lien Permitted?	Time Restraints	Value of Bond Required	Notice Requirements	Miscellaneous Issues	Anti-Advance Lien Waiver Statute?
Wyoming	Yes	Bond may be filed at any time prior to a final judgment in an action to foreclose the lien. <sup>233</sup> A lien claimant whose lien is satisfied by the filing of the bond must bring an action upon the bond within 180 days of when the lien statement was initially filed. <sup>234</sup>	150% of the lien claim. <sup>235</sup>	Upon the filing of the bond, the court clerk of the district court in the county where the lien was filed will issue a notice of satisfaction of lien that may be filed to show that the lien was satisfied. <sup>236</sup>	Felony criminal liability may attach if a general contractor provides an affidavit to the owner stating that all subcontractors and suppliers have been paid knowing that they have not been paid. <sup>237</sup>  A successful claimant may recover attorneys' fees. <sup>238</sup>	No <sup>239</sup>

<sup>233</sup> WYO. STAT. ANN. § 29-1-501(c).

<sup>234</sup> *Id.* § 29-2-109.

<sup>235</sup> *Id.* § 29-1-501(a).

<sup>236</sup> *Id.* § 29-1-501(e).

<sup>237</sup> *Id.* § 6-3-608.

<sup>238</sup> *Id.* § 29-1-501(b).

<sup>239</sup> *See generally id.* § 29-2-106(b) (contractor may not waive lien rights of subcontractors or materialmen).