

Lien Waivers in Construction Credit - Legal Nuance, Risk Management, and Strategic Execution

By: Kristin Alford, Senior Content Marketing Specialist, NCS Credit

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Abstract

Why are lien waivers so important in construction credit? They are critical in mitigating payment risk when dealing with multi-tiered projects. Learn about the legalities, practical use, technology and strategies to effectively manage construction lien waivers.

Securing Payment in Construction; Why Lien Waivers Deserve Undivided Attention

Payment risk in construction is one of the industry's most pressing challenges. With complex, multi-tiered projects involving general contractors, subcontractors, suppliers, equipment lessors, and property owners, the risk of delayed or nonpayment looms over every job site. Payment disputes can disrupt cash flow, lead to costly litigation, and damage relationships.

Lien waivers play a critical role in mitigating these risks. The number of lien waivers exchanged on a given project can range widely based on the number of parties furnishing to the project. Smaller residential projects, with fewer parties and payment draws, may generate 10-40 waivers. Whereas large commercial projects, like a mixed-use retail/residential project, could generate upwards of 5,000+. Arguably, lien waivers are one of the most common documents in construction.

Embedded within project payment workflows, lien waivers serve as conditional or unconditional acknowledgments tied to payment events. When executed and managed properly, they help protect receivables, ensure timely payment, and maintain a project's financial integrity. However, misunderstanding or mishandling lien waivers can expose parties to substantial legal and financial risk.

This article reviews the legal function, practical use, technology, and strategic importance of lien waivers. By breaking down the types, legal nuances, jurisdictional requirements, and best practices, we aim to equip credit professionals, with the knowledge they need to manage waivers effectively and protect their payment rights.

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