§ 44A-16. Discharge of record claim of lien on real property.

(a) Any claim of lien on real property filed under this Article may be discharged by any of the following methods:

(1) The lien claimant of record, the claimant's agent or attorney, in the presence of the clerk of superior court may acknowledge the satisfaction of the claim of lien on real property indebtedness, whereupon the clerk of superior court shall forthwith make upon the record of such claim of lien on real property an entry of such acknowledgment of satisfaction, which shall be signed by the lien claimant of record, the claimant's agent or attorney, and witnessed by the clerk of superior court.

(2) The owner may exhibit an instrument of satisfaction signed and acknowledged by the lien claimant of record which instrument states that the claim of lien on real property indebtedness has been paid or satisfied, whereupon the clerk of superior court shall cancel the claim of lien on real property by entry of satisfaction on the record of such claim of lien on real property.

(3) By failure to enforce the claim of lien on real property within the time prescribed in this Article.

(4) By filing in the office of the clerk of superior court the original or certified copy of a judgment or decree of a court of competent jurisdiction showing that the action by the claimant to enforce the claim of lien on real property has been dismissed or finally determined adversely to the claimant.

(5) Whenever a sum equal to the amount of the claim or claims of lien on real property claimed is deposited with the clerk of court, to be applied to the payment finally determined to be due, whereupon the clerk of superior court shall cancel the claim or claims of lien on real property or claims of lien on real property of record.

(6) Whenever a corporate surety bond, in a sum equal to one and one-fourth times the amount of the claim or claims of lien on real property claimed and conditioned upon the payment of the amount finally determined to be due in satisfaction of said claim or claims of lien on real property, is deposited with the clerk of court, whereupon the clerk of superior court shall cancel the claim or claims of lien on real property of record.

(b) The clerk may release funds held or a corporate surety bond upon receipt of one of the following:

(1) Written agreement of the parties.

(2) A final judgment of a court of competent jurisdiction.

(3) A consent order.

(c) For improvements performed in conjunction with a development contract under G.S. 143-128.1C, a claim of lien on real property or a claim of lien on funds served on a private developer may also be discharged by the private developer and the surety on a payment bond issued under G.S. 143-128.1C(g)(1) in accordance with this subsection. The claim of lien may be discharged by the private developer and surety jointly filing with the clerk of superior court of the county where the project is located a copy of the payment bond together with an affidavit executed by the surety stating that, as of the date of the filing of the payment bond with the clerk of superior court, the amount of the penal sum of the payment bond minus any amounts paid in good faith to other claimants on the project and minus the amount of all other claims of lien on real property filed against the property improved by the project exceeds the amount claimed by the lien claim being discharged by at least one hundred twenty-five percent (125%).

Notwithstanding any other contractual provision or law, where a claimant's lien claim has been discharged under this subsection, the claimant shall have no less than one year from the date of being served with the payment bond and affidavit to file suit on the payment bond. (1969, c. 1112, s. 1; 1971, c. 766; 2005-229, s. 1; 2011-411, s. 3; 2013-401, s. 6.)