

Construction Liens in Practice (NJ)

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A Practice Note addressing New Jersey’s statutory construction liens that may arise out of construction projects for the improvement of privately owned residential and commercial real property in New Jersey. This Note focuses on providing practical guidance on the processes and procedures for perfecting, enforcing, and discharging construction liens in New Jersey.

Construction liens can be a powerful tool to protect a contractor, subcontractor, or supplier that has not been paid for work or services performed or for equipment and materials furnished to improve privately owned real property. The Construction Lien Law (CLL) governs construction liens on privately owned residential and commercial (nonresidential) real property in New Jersey (N.J.S.A. 2A:44A-1 to 2A:44A-38).

This Note discusses the processes and procedures in the CLL to:

- Prepare a valid construction lien claim.
- Perfect and enforce lien rights.
- Determine the priority of lien rights.
- Discharge a construction lien.

For detailed checklists describing the construction lien workflow process, see Construction Lien Workflow Checklist (Residential) (NJ) ([W-005-5181](#)) and Construction Lien Workflow Checklist (Commercial/Nonresidential) (NJ) ([W-005-5392](#)).

For a collection of resources to assist both construction lien claimants and owners of real property in New Jersey, see Construction Liens Toolkit (NJ) ([W-003-4514](#)).

THE PARTY ENTITLED TO A CONSTRUCTION LIEN

A contractor, subcontractor, or supplier that provides work, services, materials, or equipment to improve privately owned real property

may claim a lien on the privately owned real property to secure payment (N.J.S.A. 2A:44A-3).

DEFINITIONS OF LIEN CLAIMANTS AND THEIR ROLES

The CLL permits a contractor, subcontractor, or supplier (lien claimant or claimant) to file a construction lien under certain circumstances (N.J.S.A. 2A:44A-3(a)).

A “contractor” is any of the following:

- A party with a written contract with a property owner or community association to improve real property.
- A licensed architect, engineer, land surveyor, or certified landscape architect with a written contract with a property owner or community association to provide professional services to improve or plan improvements for the real property.
- A construction manager:
 - entering into a single contract with an owner or a community association for the performance of construction work to improve real property;
 - entering into a subcontract to oversee performance of construction work to improve real property; or
 - acting as the owner’s or community association’s designated agent without entering into a subcontract.

(N.J.S.A. 2A:44A-2.)

A “subcontractor” is any person or entity providing work or services to improve real property under a contract with a contractor or another subcontractor (N.J.S.A. 2A:44A-2).

A “supplier” is anyone:

- Providing material or equipment, including rental equipment, to improve real property.
- With a contract with the property’s owner or with a contractor or subcontractor.

(N.J.S.A. 2A:44A-2.)

A supplier is not an entity that:

- Supplies fuel for motor vehicles or equipment used on the property.

- Sells personal property and has a security interest in that personal property, regardless of whether it improves real property.

(N.J.S.A. 2A:44A-2.)

Only first-, second-, and third-tier lien claimants have rights to a construction lien (N.J.S.A. 2A:44A-9(g)). “First-tier lien claimant” means a claimant who is as a contractor. “Second-tier lien claimant” means a claimant that, in relation to a contractor, is either a subcontractor or supplier. (N.J.S.A. 2A:44A-2.) “Third-tier lien claimant” means a claimant acting as a subcontractor to a second-tier lien claimant or a supplier to a second-tier lien claimant. A supplier to a supplier may not, however, file a lien claim regardless of its tier (N.J.S.A. 2A:44A-2.)

WHAT A CONSTRUCTION LIEN CLAIM COVERS; EXTENT OF LIEN

WORK, SERVICES, AND MATERIALS COVERED BY A CONSTRUCTION LIEN

A lien claimant performing work or services or furnishing materials or equipment may claim a construction lien.

“Work” is an activity that improves real property and includes the labor of a paid employee when the lien claimant is a contractor or subcontractor (N.J.S.A. 2A:44A-2).

“Services” are professional services provided by any of the following parties that prepare plans to improve real property:

- A licensed architect.
- An engineer.
- A land surveyor.
- A certified landscape architect.

(N.J.S.A. 2A:44A-2.)

It does not matter if the work is not completed or if the services are performed for an improvement which is ultimately not undertaken. Services eligible for lien rights do not include services provided by a professional that is a paid employee of the contractor, a subcontractor, or the owner. (N.J.S.A. 2A:44A-2.)

“Materials” are:

- Goods used to improve the real property.
- Items incorporated into the real property.
- Goods consumed as normal waste in the construction operations.
- Items used in construction or used to operate equipment, but not incorporated into the real property.

(N.J.S.A. 2A:44A-2.)

However, the fuel used in motor vehicles or the equipment used at the construction site is not considered a material under the CLL (N.J.S.A. 2A:44A-2).

“Equipment” means any machinery (including rental equipment) that is delivered to or used on the real property. Equipment or materials which is purchased by the claimant but not intended for use on any specific project is not covered under the CLL. (N.J.S.A. 2A:44A-2.)

The CLL also does not cover:

- Materials that have been furnished or delivered subject to a security agreement which has been entered into under Article 9 of New Jersey’s Uniform Commercial Code (N.J.S.A. 2A:44A-5(a)).
- Evaluative work, such as a feasibility study, which is not followed by related construction work.
- Personal property that does not become part of the real estate (*Future Bldg. & Loan Ass’n v. Mazzocchi*, 107 N.J. Eq. 422 (Ch. Ct. 1931)).
- Work performed involving the mining of minerals, removal of timber, gravel, soil or sod, unless the work is integral to or necessitated by the improvement to real property. (N.J.S.A. 2A:44A-2.)

PROPERTY INTERESTS SUBJECT TO A LIEN

Under the CLL, a construction lien attaches to any interest that the property owner has at the time and after the filing of the lien claim (N.J.S.A. 2A:44A-10). The CLL defines “interest in real property” to include ownership, possession, or other enforceable interest, such as:

- Fee simple title.
- Easement rights.
- Covenants or restrictions.
- Leases (see Attachment to Leasehold Interests).
- Mortgages.

(N.J.S.A. 2A:44A-2.)

Public Land Exempt

A construction lien does not attach to property owned by a public entity. A public entity includes:

- The state of New Jersey.
- A county.
- A municipality.
- A district.
- A public authority or public agency.
- A bi-state agency, such as The Port Authority of New York and New Jersey.
- Any other political subdivision or public body.

(N.J.S.A. 2A:44A-2 and 2A:44A-5(b).)

The Municipal Mechanics’ Lien Law governs certain public improvement projects in New Jersey where the public improvement is contracted for by a county, city, town, township, public commission, public board, or other municipality in New Jersey authorized by law to make such contracts (N.J.S.A. 2A:44-125 to 2A:44-142).

Community Associations

A “community association” is a condominium, cooperative, homeowners’ association, or other entity that manages common elements of a real property development (N.J.S.A. 2A:44A-2). If the community association is the contracting party, a claimant files a construction lien against the community association but the lien does not attach to any real property (N.J.S.A. 2A:44A-3(c)(2)).

A lien claimant cannot enforce a judgment against a community association by the sale of any common elements, common areas, or common buildings or structures of a real property development. A lien claimant instead enforces a judgment against a community association by assessments against unit owners, after reasonable notice, and in a manner directed by the court.

In ordering assessments, the court is guided by the community association's governing documents that may include:

- The master deed.
- The bylaws.
- Any other document governing the association.

(N.J.S.A. 2A:44A-24.1(h).)

Best practice is to review the community association's governing documents before:

- Entering into the contract for the improvements.
- Asserting a construction lien.

Alternatively, consider requesting the community association to post a bond or other security for the work performed at an association's property.

Attachment to Leasehold Interests

When a tenant contracts for improvements to the leased premises, a lien claimant may assert a construction lien against the tenant's leasehold interest. The construction lien may also attach to both the tenant's leasehold interest and the property owner's interest if one of the following applies:

- The property owner has expressly authorized the tenant's improvements contract in a written agreement and the written agreement provides that the property owner's interest be subject to a lien for the improvements.
- The property owner has paid or agreed in writing to pay for most of the improvements.
- The lease or sublease between the property owner and the tenant provides that the property owner's interest be subject to a lien for the improvements.

(N.J.S.A. 2A:44A-3(e); *Benmoore Constr. Group, Inc. v. Herod Rutherford Developers, L.L.C.*, 2009 WL 4251130, at *5-6 (N.J. Super. Ct. App. Div. Nov. 18, 2009) (unpublished decision, cite only in accordance with N.J. R. 1:36-3).)

Before entering into a contract with a tenant to perform improvements to the leased premises, contractors should:

- Obtain a copy of the landlord's written authorization for the tenant improvements.
- Understand the funding source for the tenant improvements.
- Review a copy of the tenant's lease.

Contractors taking these steps are in the best position to know whether they may assert a construction lien against the landlord's fee interest in the real property.

WRITTEN CONTRACT REQUIRED

A lien claimant must have a written contract for the improvements as a condition precedent to a valid construction lien (*Patock Constr.*

Co. v. GVK Enters., LLC, 372 N.J. Super. 380, 386-87 (App. Div. 2004); *W. Va. Steel Corp. v. Sparta Steel Corp.*, 356 N.J. Super. 398, 404-05 (App. Div. 2003); *Gallo v. Sphere Constr. Corp.*, 293 N.J. Super. 558, 562 (Ch. Div. 1996)).

Under the CLL, a "contract" must be in writing and evidence the responsibilities of both contracting parties. The contract must bear the signature of the party against which the lien is asserted. "Signed" means containing a mark intending to authenticate the document. (N.J.S.A. 2A:44A-2.)

However, a corporate officer of the lien claimant must execute, acknowledge, and verify the lien claim. The claimant's attorney may not sign the lien claim unless the attorney is also a corporate officer. (N.J.S.A. 2A:44A-6; *D.D.B. Interior Contracting, Inc. v. Trends Urban Renewal Ass'n, Ltd.*, 176 N.J. 164 (2003); *NRG REMA LLC v. Creative Env't'l Solutions Corp.*, 454 N.J. Super. 578, 598-603 (App. Div. 2018); *Aloia Constr. Co. v. BFW/Howell Assocs., LLC*, 2010 WL 322890, at *6-8 (N.J. Super. Ct. App. Div. January 29, 2010) (unpublished decision, cite only in accordance with N.J. R. 1:36-3), *cert. denied*, 201 N.J. 498 (2010).)

The purpose of the written contract requirement is to:

- Provide tangible evidence that reduces proof problems in litigated matters.
- Provide a sound basis for third parties to evaluate the merits of the lien claim.

(*Legge Indus. v. Joseph Kushner Hebrew Acad./JKHA*, 333 N.J. Super. 537, 560-64 (App. Div. 2000).)

Because New Jersey courts strictly adhere to the writing requirement, signed affidavits are insufficient to comply with the written contract requirement under the CLL (*Patock*, 372 N.J. Super. at 385-89). However, a purchase order or delivery slip signed by the property owner, contractor, or subcontractor satisfies the written contract requirement regarding a construction lien claim by a supplier (N.J.S.A. 2A:44A-2; *Sil-Kemp Concrete, Inc. v. Conte & Ricci Constr. Co.*, 2005 WL 3742261, at *8-9 (N.J. Super. Ct. App. Div. Feb. 8, 2006) (unpublished decision, cite only in accordance with N.J. R. 1:36-3)).

LIEN AMOUNT

The CLL limits the amount of a construction lien claim to the amount actually owed. The amount of a lien claim is limited to the lien fund (see Lien Fund). Any payments made to a lien claimant reduce the lien amount. (N.J.S.A. 2A:44A-3 and 2A:44A-9.)

A lien claimant may file amendments to the lien claim using a prescribed statutory form (see Standard Document, Amendment to Construction Lien Claim (NJ) ([W-000-2385](#))). An amendment is typically filed when a subcontractor or supplier has already filed a lien claim for work performed and continues to work under its subcontract or purchase order agreement. If non-payment continues, the claimant may amend the lien claim to include the additional value of work performed. (N.J.S.A. 2A:44A-11.)

The CLL sets a limit for a real property owner's liability. One goal of the CLL is to protect a property owner from paying a subcontractor when the owner already paid the general contractor for the subcontractor's work (*Craft v. Stevenson Lumber Yard, Inc.*, 179 N.J.

56, 67-68 (2004); *Labov Mech., Inc. v. E. Coast Power, L.L.C.*, 377 N.J. Super. 240, 245 (App. Div. 2005); *L&W Supply Corp. v. DeSilva*, 429 N.J. Super. 179 (App. Div. 2012)). The CLL, however, also ensures that the contractors and suppliers who are owed money have the ability to secure payment (N.J.S.A. 2A:44A-3(a); *Thomas Group, Inc. v. Wharton Senior Citizen Hous., Inc.*, 163 N.J. 507, 517 (2000)).

Lien Fund

A “lien fund” is the pool of money from which the lien claim is paid. In other words, the lien fund is the measure of what is recoverable in connection with a construction lien. (N.J.S.A. 2A:44A-2 and 2A:44A-9; *Craft*, 179 N.J. at 62-65; *AEG Holdings, L.L.C. v. Tri-Gem's Builders, Inc.*, 347 N.J. Super. 511 (App. Div. 2002).) The lien fund varies depending on the classification of the lien claimant (see Definitions of Lien Claimants and their Roles).

The lien fund, or the maximum amount for which an owner may be liable, is calculated as follows:

- For a contractor’s claim, the amount of the contract between the owner and contractor less payments made by the owner before the owner’s receipt of the lien claim.
- For a subcontractor or supplier’s claim, the lesser of:
 - the amount of the contractor’s claim (the contract price minus payments made); or
 - the amount contained in the agreement by which the work or materials were provided (a subcontract or supplier agreement), less payments made by the owner before receiving notice of the lien claim.

(N.J.S.A. 2A:44A-9(b)(1)-(2); *Riggs Distler & Co. v. Valero Refining Co.*, 2005 WL 2897483 (D.N.J. 2005).)

If the lien claimant completes its performance under the written contract, the “earned amount of the contract” is equal to the contract price. If the claimant breached or failed to perform, the earned amount is the value of the work or services performed or the value of the material or equipment actually provided. (N.J.S.A. 2A:44A-9(e).)

When there are multiple lien claimants, determine the lien fund as of the date the first lien claimant asserts a lien claim. However, if the contract amount increases, calculate the lien fund as of the date of the increase. (N.J.S.A. 2A:44A-9(f).)

Regardless of the amount owed to one or more claimants, the measure of the lien fund never exceeds the difference between the owner’s total contract price with the contractor and the amount the owner paid to the contractor as of the filing of the lien claim (*Craft*, 179 N.J. at 63-64).

Only legitimate payments can reduce the lien fund and a property owner cannot reduce a lien fund with improper payments that cheat a subcontractor (N.J.S.A. 2A:44A-9(c); *Legge Indus.*, 333 N.J. Super. at 548-50; *AEG Holdings*, 347 N.J. Super. at 514-15).

The CLL also provides that the following payments do not reduce the lien fund:

- Payments not made under the written contract.
- Payments yet to be earned on lodging for record of the lien claim.
- Liquidated damages.
- Collusive payments.

- Use of retainage to make payments to a successor contractor after the lien claim is lodged for record.
- Setoffs or back-charges without written agreement by the claimant, except for any setoffs upheld by judgment that are first determined by:
 - an arbitration or alternate dispute resolution in accordance with N.J.S.A. 2A:44A-21; or
 - any other alternative dispute resolution agreed to by the parties.

(N.J.S.A. 2A:44A-9(c).)

Contractor and Supplier with Multiple Accounts

If a supplier knows or should know the source of the payment, the supplier must allocate the payments to that source. A property owner is not liable to a supplier when the owner pays the contractor and the contractor passes those payments on to a supplier, even if the contractor did not specify how to apply the payments. The lien fund is based on what is actually owed. If nothing is owed, there can be no lien fund. (*Craft*, 179 N.J. at 63-64.)

STEPS TO PERFECT A LIEN

Because a construction lien is statutory in origin, courts strictly construe the CLL (*Craft*, 179 N.J. at 67). However, courts interpret the CLL sensibly to further the underlying legislative purpose to permit contractors to file liens to protect the value of the work they provided (*Thomas Grp., Inc.*, 163 N.J. at 515-16).

Lien claimants should, therefore, strictly follow all the processes and procedures set out in the CLL when beginning the process of perfecting a construction lien. The processes and procedures differ depending on whether the construction is considered residential or nonresidential.

RESIDENTIAL CONSTRUCTION

Perfecting a lien against residential construction requires additional steps beyond those required with commercial (also referred to as nonresidential) properties (see Nonresidential Construction). The New Jersey legislature included special requirements for residential construction to balance the competing interests of protecting consumers and the rights of contractors, suppliers, and subcontractors. (N.J.S.A. 2A:44A-21(a).)

“Residential construction” (also referred to as “residential housing construction” or “home construction”) means construction of or improvement to a dwelling or any residential unit, including improvements to any portion of a dwelling or any residential unit. “Dwelling” means a one to three family residence that can be freestanding or a duplex. “Residential unit” means a unit in a real property development that is designed to be sold or transferred as a residence as evidenced by a master deed (for example, an apartment or condominium unit). (N.J.S.A. 2A:44A-2; *Michael J Wright Constr. Co. v. Kara Homes, Inc.*, 396 B.R. 131, 136 (D.N.J. 2008).)

Because residential construction includes improvements to developments (for example, apartment buildings and condominium projects), the CLL includes within the definition of residential construction all of the following:

- All offsite and onsite infrastructure and site-work improvements required by a residential construction contract, master deed, or other document.

- The common elements of the development, which may also include by definition the offsite and onsite infrastructure and site-work improvements.
- The areas or buildings that are commonly shared.

(N.J.S.A. 2A:44A-2.)

A residential lien claimant must satisfy the CLL's requirements in connection with each of the following as a condition precedent to a valid lien:

- Filing a Notice of Unpaid Balance and Right to File Lien.
- Demanding arbitration (see Demand for Arbitration).
- Filing a residential lien claim (see Filing and Serving a Residential Lien Claim).

Any lien claim from a residential construction contract will be forfeited if the procedure is not followed correctly and the claimant will be liable for court costs and reasonable legal expenses (N.J.S.A. 2A:44A-5(c) and 2A:44A-15; *Michael J. Wright*, 396 B.R. at 136).

Filing a Notice of Unpaid Balance and Right to File Lien (NUB)

There are no pre-filing requirements for lien claimants under the CLL except for lien claimants doing residential construction. A residential construction lien claimant must first file a Notice of Unpaid Balance and Right to File Lien (NUB):

- With the county clerk of the county where the real property is located for recording in the county's land records.
- Within 60 days following the date the lien claimant last performed work or supplied services, material, or equipment to the residential real property for which payment is claimed.

(N.J.S.A. 2A:44A-20(b) and 2A:44A-21(b)(1); see Standard Document, Notice of Unpaid Balance and Right to File Construction Lien (NUB) (NJ) ([W-000-1969](#))).

If the property is located in more than one county, then the NUB should be filed with the clerk of each county in which the property is located.

A lien claimant can amend a NUB by filing an amended NUB within the same time frame as the originally filed NUB. Best practice is to insert "Amended" at the top of any amended NUB form. (N.J.S.A. 2A:44A-20(h); see Standard Document, Amendment to Construction Lien Claim (NJ) ([W-000-2385](#))).

Counsel must understand that a NUB is not a substitute for a construction lien. The filing of a NUB also does not extend the period of time in which to lodge a lien claim for record (120 days following the date the lien claimant last performed work or supplied services, material, or equipment). (N.J.S.A. 2A:44A-20(f) and 2A:44A-6; *Mansion Supply Co. v. Bapat*, 305 N.J. Super. 313, 319-21 (App. Div. 1997), *cert. denied*, 153 N.J. 49 (1998); see Filing and Serving a Residential Lien Claim.)

Service of the NUB

Serve the owner, community association, and any contractor or subcontractor against whom the construction lien claim is asserted within ten days of filing the NUB simultaneously with:

- A copy of the NUB stamped by the county recording office.
- An affidavit proving that the NUB was filed of record.

- A demand for arbitration with the American Arbitration Association (AAA).

(N.J.S.A. 2A:44A-21(b)(2), (3).)

Serve all documents by personal service or by mail to the last known addresses of the recipients by both:

- Registered mail, certified mail, or a commercial courier the regular business of which is delivery service.
- Ordinary mail.

(N.J.S.A. 2A:44A-7(a) and 2A:44A-21(b)(2), (3).)

Demand for Arbitration

A residential construction lien claimant should serve a demand for arbitration simultaneously with service of the NUB (N.J.S.A. 2A:44A-21(b)(3); see Standard Document, Demand for Arbitration (Residential Construction Liens) (NJ) ([W-000-1970](#))).

The lien claimant must also initiate an expedited arbitration proceeding before a single arbitrator with the AAA within ten days from the date the NUB is lodged for record. The AAA designates the arbitrator. (N.J.S.A. 2A:44A-21(b)(3).)

A lien claimant is exempt from the arbitration demand if the parties have already agreed in writing to an alternative dispute resolution mechanism (N.J.S.A. 2A:44A-21(b)(3)). Consider including an alternative dispute resolution mechanism (for example, pre-lien mediation) in the written contract to avoid the delays and costs associated with the AAA process.

Additional information and instructions on instituting an arbitration proceeding can be found on the AAA's website.

The Arbitration Process

The purpose of the arbitration is to determine the validity of the lien claim and the proper amount owed to the claimant (N.J.S.A. 2A:44A-21(b)(4)).

The lien claimant must provide a copy of the filed NUB to all the arbitration parties and the arbitrator (N.J.S.A. 2A:44A-21(b)(3)).

Whenever possible, a single arbitrator determines all arbitrations of NUBs pertaining to the same residential construction project. A party to the arbitration can request a consolidation of other, related claims that have not yet been arbitrated. An arbitrator may consolidate other lien claimants' NUBs filed by subcontractors or suppliers arising from the same construction project. (N.J.S.A. 2A:44A-21(b)(3).)

A party that is not the lien claimant makes the consolidation request by sending a letter asking for consolidation to the arbitrator within five days of receiving the demand for arbitration. A party may send the letter to the arbitration administrator if no arbitrator has been assigned. The arbitrator has discretion to grant or deny a request for consolidation. (N.J.S.A. 2A:44A-21(b)(3).)

Any contractor, subcontractor, or supplier with an interest affected by the filing of a NUB may join the arbitration. The arbitrator cannot determine the rights or obligations of any of those parties except to the extent they are affected by the lien claimant's NUB. (N.J.S.A. 2A:44A-21(b)(7).)

During the arbitration hearing, the arbitrator:

- Conducts the arbitration according to the AAA rules.
- Makes determinations at the conclusion of all arbitration hearings.
- Considers any determination made in earlier arbitration proceedings that relate to the same residential construction.

(N.J.S.A. 2A:44A-21(b)(3), (4).)

The arbitrator's decision determines:

- If the NUB complied with the CLL.
- Whether service of the NUB was proper.
- The earned amount of the contract between the property owner and contractor.
- The validity and amount of any lien claim.
- The validity and amount of any liquidated or unliquidated setoffs or counterclaims to any lien claim which may be filed.
- The allocation of the costs of the arbitration among all parties.

(N.J.S.A. 2A:44A-21(b)(4).)

If the arbitrator cannot determine the amount of setoffs or counterclaims, the arbitrator orders the lien claimant to post a bond, letter of credit, or to deposit funds with a licensed New Jersey attorney for 110% of the reasonable value of the setoff or counterclaim before filing any lien claim. The 110% bond, letter of credit, or funds also apply to any other alternative dispute resolution to which the parties agree. The arbitrator also considers all prior determinations made in any earlier arbitration proceedings pertaining to the same residential construction. (N.J.S.A. 2A:44A-21(b)(5).)

Timing of Arbitration Decision

The arbitrator must render a decision within either:

- 30 days after the AAA receives the lien claimant's demand for arbitration in a contested case.
- Seven days after the time to respond to the AAA demand in an uncontested case expires.

(N.J.S.A. 2A:44A-21(b)(6).)

The parties can extend the decision deadlines only by written agreement approved by the arbitrator. The arbitrator decides any dispute regarding the timeliness of the demand for arbitration. (N.J.S.A. 2A:44A-21(b)(6); *Schadrack v. K.P. Burke Builder, LLC*, 407 N.J. Super. 153, 176 (App. Div. 2009).)

The arbitrator's decision is not binding in any later legal proceeding. Neither party may use the decision or any part of it for purposes of res judicata, collateral estoppel, or law of the case. It is not admissible evidence in any legal proceeding. (N.J.S.A. 2A:44A-21(b)(9).)

The arbitrator's decision, therefore, establishes a "prejudgment lien" that still needs to be confirmed in the later filed litigation (*Schadrack*, 407 N.J. Super. at 167). The decision of the arbitrator also does not relieve the claimant from proving the amount of the lien claim in that litigation (*Seavey Constr., Inc. v. St. Peter*, 2011 WL 4345810, at *4-5 (N.J. Super. Ct. App. Div. Sept. 19, 2011) (unpublished decision, cite only in accordance with N.J. R. 1:36-3)).

Either the lien claimant or the owner or community association may initiate a summary action in the Superior Court, Law Division to vacate, modify, or correct the arbitrator's decision. The law division must confirm the decision unless it finds a basis for vacating, modifying, or correcting the arbitrator's decision. (N.J.S.A. 2A:44A-21(b)(10).)

The law division may also set new time limits for filing the lien claim if it makes findings contrary to the arbitrator's decision that affect the time limits (N.J.S.A. 2A:44A-21(b)(10)). For example, the law division may extend the period for filing a lien claim if it finds that:

- The claim is valid contrary to the arbitrator's decision and the time for filing the lien claim has expired (N.J.S.A. 2A:44A-21(b)(10)).
- The arbitration occurred outside of the 30-day window through no fault of the parties (*Schadrack*, 407 N.J. Super. at 175-77).

Filing and Serving a Residential Lien Claim

File a residential lien claim to protect the lien claimant's rights no later than:

- Ten days following the arbitration decision.
- Within 120 days following the last date the lien claimant performed work or provided services, materials, or equipment according to a written residential construction contract.

(N.J.S.A. 2A:44A-6(a)(2) and 2A:44A-21(b)(8); see Standard Document, Construction Lien Claim (Residential) (NJ) ([W-000-1965](#))).

Warranty work, other service calls, and other work, materials, or equipment provided after the completion or termination of a lien claimant's contract does not qualify for determining the last day of work for the filing deadline (N.J.S.A. 2A:44A-6(d); *WJV Materials, LLC v. Erin Contracting, LLC*, 2016 WL 4249153, at *2 (N.J. Super. Ct. App. Div. Aug. 12, 2016) (unpublished decision, cite only in accordance with N.J. R. 1:36-3)).

A lien claimant must also provide any bond, letter of credit, or funds required by the arbitrator's decision within ten days following the arbitration decision (N.J.S.A. 2A:44A-21(b)(8) and 2A:44A-31(a), (b)). Any bond submitted must substantially comply with the statutory form (N.J.S.A. 2A:44A-31(d)).

The lien claim amount is limited to the amount the arbitrator determines (N.J.S.A. 2A:44A-21(b)(11)).

Serve the owner, community association, and any contractor or subcontractor against whom the lien claim is asserted within ten days of filing the lien claim with a stamped copy of the construction lien claim by personal service or by mailing it to their last known addresses by:

- Registered mail, certified mail, or commercial courier the regular business of which is delivery service.
- Ordinary mail.

(N.J.S.A. 2A:44A-7(a).)

Best practice is to bring as many copies as are necessary for service to the county clerk's office when filing the original lien because photocopies of the clerk's stamp are not sufficient.

Reduction of Lien Claims Exceeding Amount Due Under Residential Purchase Agreement

If the total of all lien claims attaching to residential construction exceeds the amount due under a residential purchase agreement,

the court must reduce each lien in the final judgment. The amount due under a residential purchase agreement is the net proceeds of the amount paid less previously recorded mortgages or liens other than construction liens and required recording fees. (N.J.S.A. 2A:44A-21(b)(13).)

The court reduces each lien pro rata (N.J.S.A. 2A:44A-21(b)(13)).

NONRESIDENTIAL CONSTRUCTION

Nonresidential construction generally refers to any construction to a structure other than a dwelling or residential unit (typically a commercial construction project), including a unit designed for rental purposes or a unit designed to be transferred or sold for a use other than residential. For example, a residential investment property solely used for rental purposes. (N.J.S.A. 2A:44A-2.)

Filing an Optional NUB (Nonresidential)

One noticeable difference in the CLL's requirements when filing a construction lien relating to nonresidential property is the absence of a pre-filing notice requirement. A NUB is not required before filing a construction lien in connection with improvements to nonresidential property but is always required before filing a residential construction lien (see Standard Document, Notice of Unpaid Balance and Right to File Construction Lien (NUB) (NJ) ([W-000-1969](#)); see Filing a Notice of Unpaid Balance and Right to File Lien (Residential)).

A nonresidential lien claimant should still consider filing a NUB for nonresidential construction because it:

- Gives the construction lien claim priority over conveyances, leases, or mortgages that are recorded after the NUB but before the later filed lien claim (N.J.S.A. 2A:44A-20(b); *Mansion Supply Co.*, 305 N.J. Super. at 316-17).
- Allows the later filed lien claim to relate back to the date the NUB was recorded, giving the lien claimant priority over intervening bona fide purchasers (N.J.S.A. 2A:44A-20(d); see Priority of a Construction Lien).
- Is effective for 90 days from the date the lien claimant last performed work or supplied services, material, or equipment to the nonresidential real property (N.J.S.A. 2A:44A-20(e)).

Best practice for a nonresidential lien claimant is to file a NUB if the claimant has any concern that the owner of the property may file for bankruptcy (see, for example, *Schoonover Elec. Co. v. Enron Corp.*, 294 B.R. 232, 238 (Bankr. S.D.N.Y. 2003)).

If a nonresidential lien claimant chooses to file a NUB, the NUB must be filed:

- With the county clerk of the county(ies) where the real property is located for recording in the county's land records.
- Within 90 days following the date the lien claimant last performed work or supplied services, material, or equipment to the nonresidential real property.

(N.J.S.A. 2A:44A-20(b), (e); *Mansion Supply Co.*, 305 N.J. Super. at 316-17.)

There are also no service requirements after filing a NUB in connection with nonresidential construction (N.J.S.A. 2A:44A-20(c)).

Filing the Nonresidential Construction Lien Claim

A nonresidential lien claimant must file a lien claim to protect the lien claimant's rights within 90 days following the date the lien claimant last performed work or last provided services, materials, or equipment to nonresidential real property (N.J.S.A. 2A:44A-6(a)(2)).

A valid lien claim must:

- Include a description of the specific work or services performed or materials or equipment provided that gave rise to the lien.
- Identify the claimant and the claimant's contractual relationship with the owner or community association and other known parties involved in the construction chain.
- Be signed, acknowledged, and verified under oath by the claimant.

(N.J.S.A. 2A:44A-6(a)(1); see Standard Document, Construction Lien Claim (Commercial/Nonresidential) (NJ) ([W-000-1964](#))).

The CLL prescribes a specific form for the lien claim. A self-drafted form is enforceable provided it contains the same language as the statutory form. (N.J.S.A. 2A:44A-8.)

If a lien claimant returns to the construction site for warranty work, service calls, materials, or equipment after the job is complete, the 90-day window does not start over or extend. Work performed after substantial completion does not extend or enlarge the time for filing a lien claim. (N.J.S.A. 2A:44A-6(d).)

Service of the Nonresidential Construction Lien Claim

Serve the owner, community association, and any contractor or subcontractor against whom the lien is asserted within ten days of filing the lien claim with a stamped copy of the construction lien claim by personal service or by mailing it to their last known addresses by both:

- Registered mail, certified mail, or commercial courier the regular business of which is delivery service.
- Ordinary mail.

(N.J.S.A. 2A:44A-7(a).)

Best practice is to bring as many copies as are necessary for service to the county clerk's office when filing the original lien because photocopies of the clerk's stamp are not sufficient.

The CLL provides that a construction lien is enforceable against a party with notice even if it was not properly served. Failure of service or delay in service does not invalidate the lien. However, if the party not timely served proves by a preponderance of the evidence that the late service materially prejudiced its position, the lien is invalid. Evidence of material prejudice includes disbursement of funds by the owner, community association, contractor, or subcontractor not served. A new interest or transfer of interest in the real property by an owner not served is also conclusive evidence of material prejudice. (N.J.S.A. 2A:44A-6(b)(2) and N.J.S.A. 2A:44A-7(b).)

The material prejudice cannot be the existence of the lien claim itself. Material prejudice is otherwise present in every construction lien case where the claimant fails to serve the owner in a timely manner. The property owner must show actual prejudice (damage) beyond the existence of the lien. (*Schadrack, LLC*, 407 N.J. Super. at 174-76.)

RIGHTS AND OBLIGATIONS OF THE PROPERTY OWNER

After a property owner receives a copy of the lien claim, consider that the owner, community association, contractor, or subcontractor against whom the lien claim is asserted may either:

- Pay the lien claimant directly (but not by withholding and deducting the amount due to a contractor or subcontractor if either party notifies the owner within 20 days after receiving the lien claim of their objection) (N.J.S.A. 2A:44A-12).
- Post a bond in favor of lien claimant with the county clerk's office or funds with the clerk of the law division in an amount:
 - no greater than the contract amount as determined by the arbitrator (for residential construction); or
 - equal to 110% of the lien claim as substitute security for the property (for nonresidential construction).
- (N.J.S.A. 2A:44A-31(a), (b); *Eastern Concrete Materials, Inc. v. Raritan Town Ctr., LLC*, 2011 WL 2637235, at *7 (N.J. Super Ct. App. Div. July 7, 2011) (unpublished decision, cite only in accordance with N.J. R. 1:36-3).)
- Serve a demand on the lien claimant to initiate a lawsuit to enforce the lien claim within 30 days (N.J.S.A. 2A:44A-14(a)(2); see Standard Document, Demand to File Suit to Enforce Construction Lien (NJ) ([W-000-1967](#))).
- Do nothing and wait for the lien claimant to initiate a lawsuit as required within one year following the date the lien claimant last performed work or supplied services, material, or equipment to the real property (N.J.S.A. 2A:44A-14(a)(1); see Standard Document, Complaint to Enforce Construction Lien (NJ) ([W-000-1977](#))).
- Challenge the validity of the lien claim by bringing an action to discharge the construction lien (an order to show cause) (N.J.S.A. 2A:44A-30(c)).

(*Thomas Grp., Inc.*, 163 N.J. at 512-14; *Kvaerner Process, Inc. v. Barham-McBride Joint Venture*, 368 N.J. Super. 190, 195-200 (App. Div. 2004).)

If the owner makes demand on the lien claimant to initiate a lawsuit, the owner must serve the written demand by personal service or certified mail, return receipt requested (N.J.S.A. 2A:44A-14(a)(2)).

Nothing in the CLL limits the right of a lien claimant from pursuing another remedy provided by law (N.J.S.A. 2A:44A-3). Once a construction lien is filed in accordance with the CLL, the lien claim attaches to the interest of the owner in the real property giving rise to the contract improvement that is rendered at the time the construction lien is filed (see Property Interests Subject to a Lien). Therefore, when a NUB is lodged of record against real property, the property owner can withhold and deduct the amount that is claimed from the unpaid part of the contract price that is or thereafter may be due. (N.J.S.A. 2A:44A-12; *Eastern Concrete Mat'l's, Inc.*, 2011 WL 2637235, at *15-16.)

IDENTIFYING AND PAYING POTENTIAL LIEN CLAIMANTS

Under the CLL, a property owner is entitled to identify all parties who may have lien rights in connection with a project by serving a demand for a verified list on its contractor or subcontractor (N.J.S.A. 2A:44A-37(a), (b); see Standard Document, Demand for Verified List of Subcontractors and Suppliers (Construction Liens) (NJ) ([W-000-1981](#))).

The person receiving the demand must respond within ten days with a list, verified under oath, identifying all parties with lien rights (N.J.S.A. 2A:44A-37(a), (c)).

If the list is incorrect, the person providing the list risks liability for damages, including court costs and reasonable attorney's fees, to defend against or discharge a lien asserted by a party not on the list (N.J.S.A. 2A:44A-37(e)).

A property owner also may require a contractor to obtain lien waivers from subcontractors and suppliers as they are paid (N.J.S.A. 2A:44A-38; see Standard Document, Construction Lien Waiver (NJ) ([W-000-1982](#))). Waivers are not essential, however, because the owner may subtract all of the owner's payments from the total contract price when calculating the lien fund (see Lien Fund).

Once the lien claimant serves a copy of the lien claim on the property owner, the owner may withhold and deduct the amount claimed from the amount due to the contractor and pay it to the lien claimant directly. Any payments directly to the claimant are deducted from the contract price against whose account the lien is filed. (N.J.S.A. 2A:44A-12; *Craft*, 179 N.J. at 71-72.)

DEPOSITING FUNDS ON A TRANSFER OR CONVEYANCE (RESIDENTIAL CONSTRUCTION)

If the residential property owner sells, transfers, or conveys an interest in the property between the time a lien claimant files a NUB and a lien claim, the owner must deposit with the county clerk the amount set out in the NUB. The owner makes the deposit before or at the closing of the transfer or conveyance. (N.J.S.A. 2A:44A-21(b)(11).)

The residential property owner must notify the lien claimant within five days of making the deposit. The clerk's office discharges the NUB or any related lien when it receives the deposit. (N.J.S.A. 2A:44A-21(b)(11).)

The clerk then disburses the deposit after the arbitrator's decision (see Timing of Arbitration Decision). Any amount exceeding the arbitrator's determination of the lien amount is returned to the owner. The balance remains with the clerk unless the lien claim is otherwise paid, forfeited, invalidated, or discharged. (N.J.S.A. 2A:44A-21(b)(11).)

RECOVERING COSTS AND EXPENSES FOR AN INVALID LIEN CLAIM (RESIDENTIAL CONSTRUCTION)

In residential construction only, an owner may recover court costs, reasonable attorneys' fees, and legal expenses incurred to defend a lien claim if the claim is without basis. A court makes an award to the property owner if the court determines that:

- The NUB has no basis.
- The amount stated in the NUB is significantly overstated.
- The NUB is not filed for recording:
 - in the correct form;
 - in the correct manner; or
 - in a timely manner.

(N.J.S.A. 2A:44A-21(b)(12).)

ENFORCING A CONSTRUCTION LIEN

To enforce its construction lien against the owner's real property, a lien claimant must bring a foreclosure action in the Superior Court, Law Division, Civil Part for the county where the real property is located within:

- 30 days after receiving a written demand to commence a lawsuit.
- One year following the last date the lien claimant performed work or provided services, materials, or equipment.

(N.J.S.A. 2A:44A-14(a) and 2A:44A-24.1; see New Jersey Courts: Notice to Bar, December 28, 2010; see Standard Document, Complaint to Enforce Construction Lien (NJ) ([W-000-1977](#))).

If the complaint is not filed in compliance with the deadlines described above, the lien claimant forfeits all rights to enforce the lien claim (N.J.S.A. 2A:44A-14(a); see Discharge by Forfeiture).

At the time the claimant files the complaint, the lien claimant also files a notice of *lis pendens* in the county recording office where the property is located to provide constructive notice to third parties that pending litigation exists that may affect title to the real property (N.J.S.A. 2A:15-6, 2A:15-7, and 2A:44A-24.1(d); see Standard Document, Notice of Lis Pendens (NJ) ([W-000-1983](#))).

The complaint should allege all the following elements of a construction lien:

- The plaintiff provided labor, materials, or professional services to improve real property (N.J.S.A. 2A:44A-3(a)).
- The existence of a written contract and the facts establishing the contract (see Written Contract Required).
- The value of the work, services, materials, or equipment provided less any payments received (N.J.S.A. 2A:44A-9(a)).
- The plaintiff was not paid at all or what was promised in the contract (N.J.S.A. 2A:44A-3(a)).
- The plaintiff claims a valid construction lien (N.J.S.A. 2A:44A-6).

A lien claimant names as defendants the owner, community association, contractor, or subcontractor that allegedly failed to make payment giving rise to the lien claim. The lien claimant also names any other person having an interest in the real property that may be adversely affected by the judgment. (N.J.S.A. 2A:44A-24.1(b).)

The court orders joinder of any necessary parties and determines if it is appropriate for the suit to proceed if a party defendant is not joined (N.J.S.A. 2A:44A-24.1(b)).

Disputes arising out of the real property improvement that are unrelated to enforcement of the lien claim may be brought in a separate action or in a separate count in the same action (N.J.S.A. 2A:44A-14(d)). Nothing in the CLL prevents the lien claimant from seeking recovery of monetary damages in a lawsuit to enforce a lien (N.J.S.A. 2A:44A-24.1(g)).

The court must stay a lien claim lawsuit if a contract affecting the lien claim requires that any dispute be resolved by arbitration or other dispute resolution mechanism (N.J.S.A. 2A:44A-24.1(c)).

If a defense to a lien claim is without basis, the party maintaining that defense is liable to the lien claimant for all court costs, reasonable legal expenses, and reasonable attorneys' fees incurred by any party

adversely affected by the defense. The court may enter judgment against the party maintaining the frivolous defense for damages to any of the parties adversely affected by it. (N.J.S.A. 2A:44A-15(b).)

A court's final judgment must:

- Establish the amount due to the lien claimant.
- Direct the public sale of the real property by the sheriff or other such officer.

(N.J.S.A. 2A:44A-24.1(f).)

If a court enters judgment in favor of a construction lien claimant, the court may issue a writ of execution (N.J.S.A. 2A:44A-25).

The sheriff or other officer distributes the sale proceeds according to priority and by further order of the court (N.J.S.A. 2A:44A-23). If the sale proceeds exceed the lien fund, the sheriff or other officer distributes the surplus funds as the law provides (N.J.S.A. 2A:44A-24.1(f)).

A lien claimant enforces a judgment against a community association by assessments against unit owners as directed by the court (N.J.S.A. 2A:44A-24.1(h); see Community Associations).

The CLL requires a plaintiff to file a cancellation (or discharge) of *lis pendens* if the court resolves a lawsuit to enforce by a method other than a final judgment entry in favor of the lien claimant (see Standard Document, Discharge of Lis Pendens (NJ) ([W-000-1984](#))). The lien claimant files the discharge of *lis pendens* in the office of the county clerk where the lien claimant filed the initial notice of *lis pendens*. (N.J.S.A. 2A:44A-24.1(i).)

For more information on enforcing a construction lien claim, see Construction Lien Workflow Checklist (Residential): Bring a Foreclosure Action (Lien Claimant) ([W-005-5181](#)) and Construction Lien Workflow Checklist (Commercial/Nonresidential): Bring a Foreclosure Action (Lien Claimant) ([W-005-5392](#)).

PRIORITY OF A CONSTRUCTION LIEN

In New Jersey, the rule of lien priority is first in time, first in right (*Sagi v. Sagi*, 386 N.J. Super. 517, 524-25 (App. Div. 2006)). The date of acquisition governs the priority of liens (*United Jersey Bank/South v. Camera*, 271 N.J. Super. 387, 389-90 (App. Div. 1994); N.J.S.A. 2A:17-52). A construction lien does not have priority over a mortgage, judgment, or other interest or lien that was recorded or filed with the county recording office before the lien claim was filed (N.J.S.A. 2A:44A-10).

A construction lien relating to residential construction (or nonresidential construction where the lien claimant files a NUB) relates back to the date the claimant filed the NUB (N.J.S.A. 2A:44A-20(d); see Filing a Notice of Unpaid Balance and Right to File Lien (NUB) and Filing an Optional NUB (Nonresidential)). Use the date the county recording officer stamped the NUB to determine priority for a construction lien.

No lien attaches to the interest acquired by a bona fide purchaser for value that is evidenced by a conveyance recorded before the date of filing of the lien claim (or in connection with a filed NUB, the recording date of the NUB) (N.J.S.A. 2A:44A-10).

A construction lien is subject to the effect of a notice of settlement (N.J.S.A. 2A:44A-10 and see Standard Document, Commercial Real Estate Transaction Summary (NJ): Drafting Note: Notice of Settlement ([W-000-2004](#))). A notice of settlement is a recorded document that notifies the public that a settlement affects an interest in real property. When parties to a dispute enter into a settlement agreement, the terms of which contemplate a transfer of interest in real property, they may file or record a notice of settlement. (N.J.S.A. 46:26A-11.)

A construction lien on a leasehold interest is removable. It does not prevent transfer by the owner. A construction lien on a leasehold interest does not have priority over later liens that attach to the actual property. (N.J.S.A. 2A:44A-27.)

DISCHARGING A CONSTRUCTION LIEN AND NOTICE OF LIS PENDENS

File a certificate to discharge (or cancel) the construction lien with the county clerk where the original lien claim was recorded when the construction lien claim is either:

- Paid, satisfied, or settled between the parties (Discharge by Payment or Settlement).
- Forfeited by the lien claimant (Discharge by Forfeiture).

(N.J.S.A. 2A:44A-30(a) and 2A:44A-33(a)(2); see Standard Document, Certificate to Discharge Construction Lien (NJ) ([W-000-1985](#))).

The lien claimant must sign and acknowledge the certificate. The certificate directs the county recording officer to discharge the lien claim of record and must include:

- The date of filing the lien claim.
- The book and page number where the lien was recorded.
- The name of the property owner or any community association named in the lien.
- The location of the property.
- The name of the person the work, services, materials, or equipment was provided to.

(N.J.S.A. 2A:44A-30(a).)

If the claimant fails or refuses to file the certificate, any party with an interest may also request an order to show cause under the New Jersey Rules of Court. A judge of the superior court may order the lien claim discharged on good cause shown. (N.J.S.A. 2A:44A-30(b); see Discharge by Order to Show Cause.)

The party filing the enforcement action must also file a discharge of *lis pendens* with the county clerk where the original notice of *lis pendens* was recorded when:

- The lien claim is discharged (N.J.S.A. 2A:44A-30(f)).
- The foreclosure lawsuit is resolved other than by entry of a final judgment (N.J.S.A. 2A:44A-24.1(i)).

(See Standard Document, Discharge of Lis Pendens (NJ) ([W-000-1984](#))).

Failure of the party filing the enforcement action to file the discharge of *lis pendens* after the lien claim is discharged results in liability for all court costs and reasonable attorneys' fees incurred by any defending party to discharge or obtain the discharge of the *lis pendens* (N.J.S.A. 2A:44A-30(f)).

DISCHARGE BY FORFEITURE

The lien claimant must file the certificate discharging the construction lien after forfeiting the right to file a lien claim, which occurs when either:

- The lien claim is without basis.
- The amount of the lien claim is willfully overstated.
- The lien claim is not filed on the appropriate form or in the appropriate manner.
- The lien claim is not filed within the statutory time limits.
- The lien claimant failed to file an action in the Superior Court within the time required by the CLL (see Enforcing a Construction Lien).

Failure of the lien claimant to file the discharge certificate after any forfeiture event results in liability for all court costs and reasonable attorneys' fees incurred by any defending party to discharge or obtain the discharge of the lien (N.J.S.A. 2A:44A-14(b) and 2A:44A-15(a)).

DISCHARGE BY PAYMENT OR SETTLEMENT

The lien claimant, claimant's successor in interest, or claimant's attorney must file the certificate discharging the construction lien after payment or satisfaction of the lien claim or after settlement of the lien dispute within the earlier of:

- 30 days after payment, satisfaction, or settlement.
- Seven days after demand by any interested party.

(N.J.S.A. 2A:44A-30(a).)

The property owner or community association may instead file the certificate of discharge together with an affidavit of payment if all the following occur:

- The lien claim was paid in full.
- The lien claimant failed to file a certificate discharging the lien.
- At least 13 months passed since the date of the lien claim.

(N.J.S.A. 2A:44A-30(d) and 2A:44A-33(a)(3); see Standard Document, Affidavit for Discharge of Construction Lien (NJ) ([W-000-1986](#))).

Failure of the lien claimant, claimant's successor in interest, or claimant's attorney to file the discharge certificate after payment, satisfaction, or settlement of the lien claim results in liability for all court costs and reasonable attorneys' fees incurred by any defending party to discharge or obtain the discharge of the lien (N.J.S.A. 2A:44A-30(e)).

DISCHARGE BY ORDER TO SHOW CAUSE

Any party with an interest in the real property subject to a construction lien may request an order to show cause. A superior

court judge may order the lien claim discharged on good cause shown on the ground that either:

- The lien claimant has failed or has refused to file the discharge certificate (N.J.S.A. 2A:44A-30(b) and 2A:44A-33(a)(4)).
- It is without factual basis (N.J.S.A. 2A:44A-30(c)).

When the construction lien is discharged by court order, the county clerk attaches the court order or a certificate to the original lien claim and notes on the record “discharged by court order” or “discharged by certificate” (N.J.S.A. 2A:44A-30(b) and 2A:44A-33(a)(4)).

DEATH DOES NOT EXTINGUISH CONSTRUCTION LIEN

Death of a party does not extinguish construction lien rights. A personal representative of a deceased contractor, subcontractor, or supplier may assert lien rights. Construction lien rights can also be asserted against a property owner’s estate. (N.J.S.A. 2A:44A-17.)

WAIVER OF CONSTRUCTION LIENS

A contractor, subcontractor, or supplier may waive the right to claim a construction lien by executing a lien waiver only to the extent that payment is actually received by the person signing the lien waiver. (N.J.S.A. 2A:44A-38; see Standard Document, Construction Lien Waiver (NJ) ([W-000-1982](#))).

Construction contracts between an owner and contractor may require the contractor to obtain lien waivers from subcontractors and suppliers as they are paid (N.J.S.A. 2A:44A-38; *Craft*, 179 N.J. at 70-1).

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