

28 (b) is in an amount equal to 150% of the amount claimed by the lien claimant in
29 connection with the parcel of real property sought to be released;

30 (c) is made payable to the lien claimant;

31 (d) is conditioned for the payment of the judgment which would have been rendered
32 against the property in the action to enforce the lien together with any costs and attorneys' fees
33 awarded by the court; and

34 (e) has as principal the owner of the interest in the real property, or the original contractor
35 or subcontractor affected by the lien.

36 (3) Upon the recording of the notice of release of lien and substitution of alternate security
37 under Subsection (1), the real property described in the notice shall be released from the
38 mechanics' lien to which the notice applies.

39 (4) (a) Upon the recording of a notice of release of lien and substitution of alternate
40 security under Subsection (1), the person recording the notice shall cause a copy of the notice,
41 together with any attachments, to be served within 30 days upon the lien claimant.

42 (b) If a suit is pending to foreclose the lien at the time the notice is served upon the lien
43 claimant under Subsection (4)(a), the lien claimant shall, within 90 days from the receipt of the
44 notice, institute proceedings to add the alternate security as a party to the lien foreclosure suit.

45 (5) The alternate security attached to a notice of release of lien shall be discharged and
46 released upon:

47 (a) the failure of the lien claimant to commence a suit against the alternate security within
48 the same time as an action to enforce the lien under Section 38-1-11;

49 (b) the failure of the lien claimant to institute proceedings to add the alternate security as
50 a party to a lien foreclosure suit within the time required by Subsection (4)(b); or

51 (c) the dismissal with prejudice of the foreclosure suit or suit against the alternate security
52 as to the lien claimant or the entry of judgment against the lien claimant in such a suit.

53 (6) If a copy of the notice of release of lien and substitution of alternate security is not
54 served upon the lien claimant as provided in Subsection (4)(a), the lien claimant shall have six
55 months after the discovery of the notice to commence an action against the alternate security,
56 except that no action may be commenced against the alternate security after two years from the
57 date the notice was recorded.

Legislative Review Note
as of 1-3-02 11:24 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel