

57 any of the following may make a motion to the court in which the action is pending to release
58 the notice:

59 (a) a party to the action; or

60 (b) a person with an interest in the real property affected by the notice, including a
61 prospective purchaser with an executed purchase contract.

62 (2) A court shall order [a] notice of pendency of action released if:

63 (a) the court receives a motion to release under Subsection (1); and

64 (b) after a notice and hearing if determined to be necessary by the court, the court finds
65 that the claimant has not established by a preponderance of the evidence the [probable] validity
66 of the real property claim that is the subject of the notice.

67 (3) In deciding a motion under Subsection (2), if the underlying action for which a
68 notice of pendency of action is filed is an action for specific performance, a court shall order a
69 notice released if:

70 (a) the court finds that the party filing the action has failed to satisfy the statute of
71 frauds for the transaction under which the claim is asserted relating to the real property; or

72 (b) the court finds that the elements necessary to require specific performance have not
73 been established by a preponderance of the evidence.

74 [(3)] (4) If a court releases a claimant's notice pursuant to this section, [the] that
75 claimant may not record another notice with respect to the same property without [approval of]
76 an order from the court in which the action is pending that authorizes the recording of a new
77 notice of pendency.

78 [(4)] (5) Upon a motion by any person with an interest in the real property that is the
79 subject of a notice of pendency, a court may, at anytime after the notice has been recorded,
80 require, as a condition of maintaining the notice, that the claimant [to give] provide security to
81 the moving party [a guarantee as a condition of maintaining the notice: (a) any time after a
82 notice has been recorded; and (b)] in the amount and form directed by the court, regardless of
83 whether the court has received an application to release under Subsection (1).

84 [(5)] (6) A person who receives [a guarantee] security under Subsection [(4)] (5) may
85 recover from the surety an amount not ~~Š~~→ [f] to exceed [less than] ←~~Š~~ the amount of the
85a [guarantee]

86 security upon a showing that:

87 (a) the claimant did not prevail on the real property claim; and