

**As Reported by the Senate Judiciary Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**S. B. No. 49**

**Senators Hottinger, Sykes**

**Cosponsors: Senators Thomas, Craig, Rulli, Yuko, Blessing, Manning, Schuring**



**A BILL**

To enact sections 4703.20, 4703.201, 4703.202, 1  
4703.203, 4703.204, 4703.205, 4703.206, 4703.54, 2  
4703.541, 4703.542, 4703.543, 4703.544, 3  
4703.545, 4703.546, 4733.30, 4733.301, 4733.302, 4  
4733.303, 4733.304, 4733.305, and 4733.306 of 5  
the Revised Code to establish a payment 6  
assurance program for registered design 7  
professionals. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4703.20, 4703.201, 4703.202, 9  
4703.203, 4703.204, 4703.205, 4703.206, 4703.54, 4703.541, 10  
4703.542, 4703.543, 4703.544, 4703.545, 4703.546, 4733.30, 11  
4733.301, 4733.302, 4733.303, 4733.304, 4733.305, and 4733.306 12  
of the Revised Code be enacted to read as follows: 13

**Sec. 4703.20.** As used in sections 4703.20 to 4703.206 of 14  
the Revised Code: 15

(A) "Architect" means an individual, partnership, 16  
corporation, or association providing architect services 17  
pursuant to this chapter. "Architect" does not include a 18

landscape architect registered under this chapter. 19

(B) (1) (a) "Commercial real estate" means any parcel of 20  
real estate in this state other than real estate containing or 21  
intended to contain one-to-four residential units. 22

(b) "Commercial real estate" includes any improvement made 23  
to or with regard to such a parcel. 24

(2) "Commercial real estate" does not include either of 25  
the following: 26

(a) Single-family residential units such as condominiums, 27  
townhouses, manufactured homes or industrialized units as 28  
defined in section 3781.06 of the Revised Code, or homes in a 29  
subdivision when sold, leased, or otherwise conveyed on a unit- 30  
by-unit basis, even though these units may be a part of a larger 31  
building or parcel of real estate containing more than four 32  
residential units; 33

(b) Real estate owned by a public authority as defined in 34  
section 1311.25 of the Revised Code. 35

(C) "Improvement" means all of the following: 36

(1) Designing, planning, constructing, erecting, altering, 37  
repairing, demolishing, removing, or providing other 38  
construction services with regard to any of the following: 39

(a) Any building or appurtenance thereto; 40

(b) A fixture, bridge, or other structure; 41

(c) Any gas pipeline or well, including a well drilled or 42  
constructed for the production of oil or gas. 43

(2) The furnishing of tile for the drainage of any lot or 44  
land; 45

<u>(3) The excavation, cleanup, or removal of hazardous</u>	46
<u>material or waste from real property;</u>	47
<u>(4) The enhancement or embellishment of real property by</u>	48
<u>seeding, sodding, or the planting thereon of any plants;</u>	49
<u>(5) The grading or filling to establish a grade.</u>	50
<u>(D) "Owner" means a person who has a legal or equitable</u>	51
<u>interest in commercial real estate, including a contingent</u>	52
<u>interest, pursuant to an agreement or contract, and who enters</u>	53
<u>into a written contract with an architect for services to be</u>	54
<u>provided with regard to any such interest in the commercial real</u>	55
<u>estate.</u>	56
<b><u>Sec. 4703.201.</u></b> (A) <u>(1) An architect who enters into a</u>	57
<u>written contract for services to be provided with regard to any</u>	58
<u>interest in commercial real estate has a lien on that interest.</u>	59
<u>(2) The lien shall be effective only if the contract for</u>	60
<u>services is in writing and is signed by the architect and the</u>	61
<u>owner of the interest in commercial real estate.</u>	62
<u>(B) (1) Only the architect named in the contract shall have</u>	63
<u>a lien pursuant to this section.</u>	64
<u>(2) A lien is not available to any employee, agent, or</u>	65
<u>independent contractor of the architect.</u>	66
<u>(C) The amount of the lien shall be limited to the amount</u>	67
<u>due to the architect pursuant to the contract.</u>	68
<u>(D) The lien shall be effective only against the interest</u>	69
<u>in commercial real estate that is the subject of the contract.</u>	70
<u>(E) All valid and recorded mechanic's liens arising</u>	71
<u>pursuant to Chapter 1311. of the Revised Code, regardless of</u>	72

recordation date, and all previously recorded mortgages and 73  
liens, including judgment liens, take priority over an 74  
architect's lien. 75

**Sec. 4703.202.** (A) To perfect a lien on commercial real 76  
estate referred to in section 4703.201 of the Revised Code, an 77  
architect shall file with the county recorder of the county in 78  
which the commercial real estate is located an affidavit as 79  
described in division (B) of this section. 80

(B)(1) The affidavit required under division (A) of this 81  
section shall include all of the following: 82

(a) The name of the architect; 83

(b) The name of the owner of the interest in the 84  
commercial real estate; 85

(c) The name of the record owner of the commercial real 86  
estate if different than the owner described in division (B)(1) 87  
(b) of this section; 88

(d)(i) A legal description of the commercial real estate 89  
sufficient to reference the instrument by which the record owner 90  
took title; 91

(ii) Division (B)(1)(d)(i) of this section shall not be 92  
construed as requiring a metes and bounds description. 93

(e) The parties to and date of the contract; 94

(f) The amount of the architect's claim under the 95  
contract; 96

(g) A statement that the information contained in the 97  
affidavit is true and accurate to the knowledge of the 98  
architect. 99

(2) The affidavit shall be signed by the architect and 100  
notarized. 101

(C) Not later than thirty days after recordation, the 102  
architect shall serve the recorded affidavit upon all parties 103  
listed in the affidavit by such delivery method as provides 104  
proof of receipt. Failure to serve shall not invalidate the 105  
lien, but a court may consider equitable remedies for such 106  
failure. 107

(D) A county recorder receiving an affidavit filed 108  
pursuant to division (A) of this section shall record the 109  
affidavit and charge and collect from the person filing the 110  
affidavit the fees prescribed in section 317.32 of the Revised 111  
Code for the recorder's services. 112

**Sec. 4703.203.** (A) (1) An architect holding a lien on 113  
commercial real estate that has been perfected pursuant to 114  
section 4703.202 of the Revised Code may commence proceedings to 115  
enforce the lien by filing a complaint in the common pleas court 116  
of the county in which the commercial real estate is located. 117

(2) The complaint need not initiate foreclosure 118  
proceedings on the lien prior to a court determining the 119  
validity of the underlying claim. 120

(B) The architect shall name as defendants in the 121  
complaint all parties who have an interest of record in the 122  
commercial real estate that is the subject of the lien, 123  
including all parties named in the affidavit required under 124  
section 4703.202 of the Revised Code. 125

(C) (1) The architect shall file the complaint within two 126  
years of the date of recordation of the affidavit required under 127  
section 4703.202 of the Revised Code. 128

<u>(2) Failure to file a complaint within the time specified</u>	129
<u>shall extinguish the lien.</u>	130
<u>(D)(1)(a) Any person with an interest in the commercial</u>	131
<u>real estate subject to a lien perfected pursuant to section</u>	132
<u>4703.202 of the Revised Code may demand, in writing, that the</u>	133
<u>architect commence suit to enforce the lien.</u>	134
<u>(b) Such a demand shall be commenced by serving the</u>	135
<u>architect and all parties listed in the affidavit required under</u>	136
<u>section 4703.202 of the Revised Code the written demand. Such a</u>	137
<u>delivery may be made by any means that provides proof of</u>	138
<u>receipt.</u>	139
<u>(2) If the architect does not commence the action within</u>	140
<u>sixty days after receipt of the demand, the lien is</u>	141
<u>extinguished.</u>	142
<b><u>Sec. 4703.204.</u></b> (A) <u>When a claim underlying a lien</u>	143
<u>perfected pursuant to section 4703.202 of the Revised Code is</u>	144
<u>satisfied, the architect holding the lien shall record a written</u>	145
<u>release of the architect's lien in the county recorder's office</u>	146
<u>of the county in which the lien was recorded.</u>	147
<u>(B) The architect shall file the lien release for</u>	148
<u>recording within thirty days after the underlying claim is</u>	149
<u>satisfied.</u>	150
<u>(C) The county recorder shall record the release and</u>	151
<u>charge and collect from the architect the fees set forth in</u>	152
<u>section 317.32 of the Revised Code for the recorder's services.</u>	153
<b><u>Sec. 4703.205.</u></b> (A) <u>When a claim underlying a lien</u>	154
<u>established pursuant to section 4703.201 of the Revised Code is</u>	155
<u>satisfied, regardless of whether or not the architect holding</u>	156
<u>the lien records a written release pursuant to section 4703.204</u>	157

of the Revised Code, or when such a lien is extinguished 158  
pursuant to section 4703.203 of the Revised Code, any person 159  
with an interest in the commercial real estate that was the 160  
subject of the lien, or named in the affidavit recorded pursuant 161  
to section 4703.202 of the Revised Code, may record an affidavit 162  
stating that the underlying claim was satisfied or that the lien 163  
was released by operation of law in the county recorder's office 164  
of the county in which the commercial real estate is located. 165

(B) The county recorder shall record the affidavit and 166  
charge and collect from the person filing the affidavit the fees 167  
set forth in section 317.32 of the Revised Code for the 168  
recorder's services. 169

(C) The fact that a claim underlying a lien is satisfied 170  
or that a lien is extinguished by operation of law does not 171  
affect any other right or appropriate action, such as for breach 172  
of contract. 173

**Sec. 4703.206.** (A) Any person with an interest in 174  
commercial real estate on which a lien has been perfected 175  
pursuant to section 4703.202 of the Revised Code, or named in 176  
the affidavit required under that section, may apply to the 177  
common pleas court of the county in which the commercial real 178  
estate is located to substitute financial security for the lien. 179

(B) The substitute security shall be in the amount equal 180  
to the architect's claim, and in a form such as an escrow 181  
account or surety bond held by the clerk of courts or other 182  
party as determined adequate by the court. 183

(C) The court, in its entry approving the substitute 184  
security, shall direct the release of the lien. 185

(D) (1) The person substituting the security shall file the 186

entry and release for recording in the office of the county 187  
recorder of the county in which the commercial real estate is 188  
located. 189

(2) The county recorder shall record the entry and release 190  
and charge and collect from the person filing the entry and 191  
release for recording the fees set forth in section 317.32 of 192  
the Revised Code for the recorder's services. 193

**Sec. 4703.54.** As used in sections 4703.54 to 4703.546 of 194  
the Revised Code: 195

(A) "Commercial real estate" and "improvement" have the 196  
same meanings as in section 4703.20 of the Revised Code. 197

(B) "Landscape architect" means an individual, 198  
partnership, corporation, or association providing landscape 199  
architect services pursuant to this chapter. "Landscape 200  
architect" does not include an architect licensed under this 201  
chapter. 202

(C) "Owner" means a person who has a legal or equitable 203  
interest in commercial real estate, including a contingent 204  
interest, pursuant to an agreement or contract, and who enters 205  
into a written contract with a landscape architect for services 206  
to be provided with regard to any such interest in the 207  
commercial real estate. 208

**Sec. 4703.541.** (A) (1) A landscape architect who enters 209  
into a written contract for services to be provided with regard 210  
to any interest in commercial real estate has a lien on that 211  
interest. 212

(2) The lien shall be effective only if the contract for 213  
services is in writing and is signed by the landscape architect 214  
and the owner of the interest in commercial real estate. 215



<u>(B) (1) Only the landscape architect named in the contract</u>	216
<u>shall have a lien pursuant to this section.</u>	217
<u>(2) A lien is not available to any employee, agent, or</u>	218
<u>independent contractor of the landscape architect.</u>	219
<u>(C) The amount of the lien shall be limited to the amount</u>	220
<u>due to the landscape architect pursuant to the contract.</u>	221
<u>(D) The lien shall be effective only against the interest</u>	222
<u>in commercial real estate that is the subject of the contract.</u>	223
<u>(E) All valid and recorded mechanic's liens arising</u>	224
<u>pursuant to Chapter 1311. of the Revised Code, regardless of</u>	225
<u>recordation date, and all previously recorded mortgages and</u>	226
<u>liens, including judgment liens, take priority over a landscape</u>	227
<u>architect's lien.</u>	228
<b><u>Sec. 4703.542. (A) To perfect a lien on commercial real</u></b>	229
<b><u>estate referred to in section 4703.541 of the Revised Code, a</u></b>	230
<b><u>landscape architect shall file with the county recorder of the</u></b>	231
<b><u>county in which the commercial real estate is located an</u></b>	232
<b><u>affidavit as described in division (B) of this section.</u></b>	233
<u>(B) (1) The affidavit required under division (A) of this</u>	234
<u>section shall include all of the following:</u>	235
<u>(a) The name of the landscape architect;</u>	236
<u>(b) The name of the owner of the interest in the</u>	237
<u>commercial real estate;</u>	238
<u>(c) The name of the record owner of the commercial real</u>	239
<u>estate if different than the owner described in division (B) (1)</u>	240
<u>(b) of this section;</u>	241
<u>(d) (i) A legal description of the commercial real estate</u>	242

<u>sufficient to reference the instrument by which the record owner</u>	243
<u>took title;</u>	244
<u>(ii) Division (B) (1) (d) (i) of this section shall not be</u>	245
<u>construed as requiring a metes and bounds description.</u>	246
<u>(e) The parties to and date of the contract;</u>	247
<u>(f) The amount of the landscape architect's claim under</u>	248
<u>the contract;</u>	249
<u>(g) A statement that the information contained in the</u>	250
<u>affidavit is true and accurate to the knowledge of the landscape</u>	251
<u>architect.</u>	252
<u>(2) The affidavit shall be signed by the landscape</u>	253
<u>architect and notarized.</u>	254
<u>(C) Not later than thirty days after recordation, the</u>	255
<u>landscape architect shall serve the recorded affidavit upon all</u>	256
<u>parties listed in the affidavit by such delivery method as</u>	257
<u>provides proof of receipt. Failure to serve shall not invalidate</u>	258
<u>the lien, but a court may consider equitable remedies for such</u>	259
<u>failure.</u>	260
<u>(D) A county recorder receiving an affidavit filed</u>	261
<u>pursuant to division (A) of this section shall record the</u>	262
<u>affidavit and charge and collect from the person filing the</u>	263
<u>affidavit the fees prescribed in section 317.32 of the Revised</u>	264
<u>Code for the recorder's services.</u>	265
<u>Sec. 4703.543. (A) (1) A landscape architect holding a lien</u>	266
<u>that has been perfected pursuant to section 4703.542 of the</u>	267
<u>Revised Code may commence proceedings to enforce a lien by</u>	268
<u>filing a complaint in the common pleas court of the county in</u>	269
<u>which the commercial real estate is located.</u>	270

(2) The complaint need not initiate foreclosure 271  
proceedings on the lien prior to a court determining the 272  
validity of the underlying claim. 273

(B) The landscape architect shall name as defendants in 274  
the complaint all parties who have an interest of record in the 275  
commercial real estate that is the subject of the lien, 276  
including all parties named in the affidavit required under 277  
section 4703.542 of the Revised Code. 278

(C) (1) The landscape architect shall file the complaint 279  
within two years of the date of recordation of the affidavit 280  
required under section 4703.542 of the Revised Code. 281

(2) Failure to file a complaint within the time specified 282  
shall extinguish the lien. 283

(D) (1) (a) Any person with an interest in the commercial 284  
real estate subject to a lien perfected pursuant to section 285  
4703.542 of the Revised Code may demand, in writing, that the 286  
landscape architect commence suit to enforce the lien. 287

(b) Such a demand shall be commenced by serving the 288  
landscape architect and all parties listed in the affidavit 289  
required under section 4703.542 of the Revised Code the written 290  
demand. Such a delivery may be made by any means that provides 291  
proof of receipt. 292

(2) If the landscape architect does not commence the 293  
action within sixty days after receipt of the demand, the lien 294  
is extinguished. 295

**Sec. 4703.544.** (A) When a claim underlying a lien 296  
perfected pursuant to section 4703.542 of the Revised Code is 297  
satisfied, the landscape architect holding the lien shall record 298  
a written release of the landscape architect's lien in the 299

county recorder's office of the county in which the lien was 300  
recorded. 301

(B) The landscape architect shall file the lien release 302  
for recording within thirty days after the underlying claim is 303  
satisfied. 304

(C) The county recorder shall record the release and 305  
charge and collect from the landscape architect the fees set 306  
forth in section 317.32 of the Revised Code for the recorder's 307  
services. 308

**Sec. 4703.545.** (A) When a claim underlying a lien 309  
established pursuant to section 4703.541 of the Revised Code is 310  
satisfied, regardless of whether or not the landscape architect 311  
holding the lien records a written release pursuant to section 312  
4703.544 of the Revised Code, or when such a lien is 313  
extinguished pursuant to section 4703.543 of the Revised Code, 314  
any person with an interest in the commercial real estate that 315  
was the subject of the lien, or named in the affidavit recorded 316  
pursuant to section 4703.542 of the Revised Code, may record an 317  
affidavit stating that the underlying claim was satisfied or 318  
that the lien was released by operation of law in the county 319  
recorder's office of the county in which the commercial real 320  
estate is located. 321

(B) The county recorder shall record the affidavit and 322  
charge and collect from the person filing the affidavit the fees 323  
set forth in section 317.32 of the Revised Code for the 324  
recorder's services. 325

(C) The fact that a claim underlying a lien is satisfied 326  
or that a lien is extinguished by operation of law does not 327  
affect any other right or appropriate action, such as for breach 328

of contract. 329

**Sec. 4703.546.** (A) Any person with an interest in 330  
commercial real estate on which a lien has been perfected 331  
pursuant to section 4703.542 of the Revised Code, or named in 332  
the affidavit required under that section, may apply to the 333  
common pleas court of the county in which the commercial real 334  
estate is located to substitute financial security for the lien. 335

(B) The substitute security shall be in the amount equal 336  
to the landscape architect's claim, and in a form such as an 337  
escrow account or surety bond held by the clerk of courts or 338  
other party as determined adequate by the court. 339

(C) The court, in its entry approving the substitute 340  
security, shall direct the release of the lien. 341

(D) (1) The person substituting the security shall file the 342  
entry and release for recording in the office of the county 343  
recorder of the county in which the commercial real estate is 344  
located. 345

(2) The county recorder shall record the entry and release 346  
and charge and collect from the person filing the entry and 347  
release for recording the fees set forth in section 317.32 of 348  
the Revised Code for the recorder's services. 349

**Sec. 4733.30.** As used in sections 4733.30 to 4733.306 of 350  
the Revised Code: 351

(A) "Commercial real estate" and "improvement" have the 352  
same meanings as in section 4703.20 of the Revised Code. 353

(B) "Owner" means a person who has a legal or equitable 354  
interest in commercial real estate, including a contingent 355  
interest, pursuant to an agreement or contract, and who enters 356

into a written contract with a professional engineer or 357  
professional surveyor for services to be provided with regard to 358  
any such interest in the commercial real estate. 359

(C) "Professional engineer" means an individual, 360  
partnership, corporation, or association providing engineering 361  
services pursuant to this chapter. 362

(D) "Professional surveyor" means an individual, 363  
partnership, corporation, or association providing engineering 364  
services pursuant to this chapter. 365

**Sec. 4733.301.** (A) (1) A professional engineer or 366  
professional surveyor who enters into a written contract for 367  
services to be provided with regard to any interest in 368  
commercial real estate has a lien on that interest. 369

(2) The lien shall be effective only if the contract for 370  
services is in writing and is signed by the professional 371  
engineer or professional surveyor and the owner of the interest 372  
in commercial real estate. 373

(B) (1) Only the professional engineer or professional 374  
surveyor named in the contract shall have a lien pursuant to 375  
this section. 376

(2) A lien is not available to any employee, agent, or 377  
independent contractor of the professional engineer or 378  
professional surveyor. 379

(C) The amount of the lien shall be limited to the amount 380  
due to the professional engineer or professional surveyor 381  
pursuant to the contract. 382

(D) The lien shall be effective only against the interest 383  
in commercial real estate that is the subject of the contract. 384

(E) All valid and recorded mechanic's liens arising 385  
pursuant to Chapter 1311. of the Revised Code, regardless of 386  
recordation date, and all previously recorded mortgages and 387  
liens, including judgment liens, take priority over a 388  
professional engineer or professional surveyor's lien. 389

**Sec. 4733.302.** (A) To perfect a lien on commercial real 390  
estate referred to in section 4733.301 of the Revised Code, a 391  
professional engineer or professional surveyor shall file with 392  
the county recorder of the county in which the commercial real 393  
estate is located an affidavit as described in division (B) of 394  
this section. 395

(B) (1) The affidavit required under division (A) of this 396  
section shall include all of the following: 397

(a) The name of the professional engineer or professional 398  
surveyor; 399

(b) The name of the owner of the interest in the 400  
commercial real estate; 401

(c) The name of the record owner of the commercial real 402  
estate if different than the owner described in division (B) (1) 403  
(b) of this section; 404

(d) (i) A legal description of the commercial real estate 405  
sufficient to reference the instrument by which the record owner 406  
took title; 407

(ii) Division (B) (1) (d) (i) of this section shall not be 408  
construed as requiring a metes and bounds description. 409

(e) The parties to and date of the contract; 410

(f) The amount of the professional engineer or 411  
professional surveyor's claim under the contract; 412

(g) A statement that the information contained in the affidavit is true and accurate to the knowledge of the professional engineer or professional surveyor. 413  
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(2) The affidavit shall be signed by the professional engineer or professional surveyor and notarized. 416  
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(C) Not later than thirty days after recordation, the professional engineer or professional surveyor shall serve the recorded affidavit upon all parties listed in the affidavit by such delivery method as provides proof of receipt. Failure to serve shall not invalidate the lien, but a court may consider equitable remedies for such failure. 418  
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(D) A county recorder receiving an affidavit filed pursuant to division (A) of this section shall record the affidavit and charge and collect from the person filing the affidavit the fees prescribed in section 317.32 of the Revised Code for the recorder's services. 424  
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**Sec. 4733.303.** (A) (1) A professional engineer or professional surveyor holding a lien that has been perfected pursuant to section 4733.302 of the Revised Code may commence proceedings to enforce the lien by filing a complaint in the common pleas court of the county in which the commercial real estate is located. 429  
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(2) The complaint need not initiate foreclosure proceedings on the lien prior to a court determining the validity of the underlying claim. 435  
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(B) The professional engineer or professional surveyor shall name as defendants in the complaint all parties who have an interest of record in the commercial real estate that is the subject of the lien, including all parties named in the 438  
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affidavit required under section 4733.302 of the Revised Code. 442

(C) (1) The professional engineer or professional surveyor 443  
shall file the complaint within two years of the date of 444  
recordation of the affidavit required under section 4733.302 of 445  
the Revised Code. 446

(2) Failure to file a complaint within the time specified 447  
shall extinguish the lien. 448

(D) (1) (a) Any person with an interest in the commercial 449  
real estate subject to a lien perfected pursuant to section 450  
4733.302 of the Revised Code may demand, in writing, that the 451  
professional engineer or professional surveyor commence suit to 452  
enforce the lien. 453

(b) Such a demand shall be commenced by serving the 454  
professional engineer or professional surveyor and all parties 455  
listed in the affidavit required under section 4733.302 of the 456  
Revised Code the written demand. Such a delivery may be made by 457  
any means that provides proof of receipt. 458

(2) If the professional engineer or professional surveyor 459  
does not commence the action within sixty days after receipt of 460  
the demand, the lien is extinguished. 461

**Sec. 4733.304. (A) When a claim underlying a lien** 462  
**perfected pursuant to section 4733.302 of the Revised Code is** 463  
**satisfied, the professional engineer or professional surveyor** 464  
**holding the lien shall record a written release of the** 465  
**professional engineer or professional surveyor's lien in the** 466  
**county recorder's office of the county in which the lien was** 467  
**recorded.** 468

(B) The professional engineer or professional surveyor 469  
shall file the lien release for recording within thirty days 470

after the underlying claim is satisfied. 471

(C) The county recorder shall record the release and 472  
charge and collect from the professional engineer or 473  
professional surveyor the fees set forth in section 317.32 of 474  
the Revised Code for the recorder's services. 475

**Sec. 4733.305.** (A) When a claim underlying a lien 476  
established pursuant to section 4733.301 of the Revised Code is 477  
satisfied, regardless of whether or not the professional 478  
engineer or professional surveyor holding the lien recorded a 479  
written release pursuant to section 4733.304 of the Revised 480  
Code, or when such a lien is extinguished pursuant to section 481  
4733.303 of the Revised Code, any person with an interest in the 482  
commercial real estate that was the subject of the lien, or 483  
named in the affidavit recorded pursuant to section 4733.302 of 484  
the Revised Code, may record an affidavit stating that the 485  
underlying claim was satisfied or that the lien was released by 486  
operation of law in the county recorder's office of the county 487  
in which the commercial real estate is located. 488

(B) The county recorder shall record the affidavit and 489  
charge and collect from the person filing the affidavit the fees 490  
set forth in section 317.32 of the Revised Code for the 491  
recorder's services. 492

(C) The fact that a claim underlying a lien is satisfied 493  
or that a lien is extinguished by operation of law does not 494  
affect any other right or appropriate action, such as for breach 495  
of contract. 496

**Sec. 4733.306.** (A) Any person with an interest in 497  
commercial real estate on which a lien has been perfected 498  
pursuant to section 4733.302 of the Revised Code, or named in 499

the affidavit required under that section, may apply to the 500  
common pleas court of the county in which the commercial real 501  
estate is located to substitute financial security for the lien. 502

(B) The substitute security shall be in the amount equal 503  
to the professional engineer or professional surveyor's claim, 504  
and in a form such as an escrow account or surety bond held by 505  
the clerk of courts or other party as determined adequate by the 506  
court. 507

(C) The court, in its entry approving the substitute 508  
security, shall direct the release of the lien. 509

(D) (1) The person substituting the security shall file the 510  
entry and release for recording in the office of the county 511  
recorder of the county in which the commercial real estate is 512  
located. 513

(2) The county recorder shall record the entry and release 514  
and charge and collect from the person filing the entry and 515  
release for recording the fees set forth in section 317.32 of 516  
the Revised Code for the recorder's services. 517