



SureTec Insurance Company

Agency		
Agency Address		
Agency Phone	Agency Fax	Agency Email
Agency recommendation		

Texas Release of Lien Bond Application

IMPORTANT: Attach copies of the lien affidavit and copies of ALL notices, funds trapping notices, etc. that were sent to you by this claimant with the affidavit or prior to the filing of the affidavit

Applicant (Principal)						
Principal's Address		City	State	Zip		
Date Business Began	SSN or Tax ID #		Phone			
Contact Name	Fax		Email			
Type of Business	<input type="checkbox"/> Individual	<input type="checkbox"/> Partnership	<input type="checkbox"/> Corporation	<input type="checkbox"/> S Corp	<input type="checkbox"/> LLP	<input type="checkbox"/> LLC
Name of Bank		Bank Address				
Bank Contact Name and Phone No.		Lines of Credit?	If yes, Amount \$			
Applicant's Attorney		Attorney Phone		Attorney Email		
Attorney Address		City	State	Zip		
Name of Claimant		Date Lien Filed	Amount of Lien \$			
If known, Clerk's Document Number, or Volume and Page of filing of Lien Affidavit						
Claimant's Attorney		Attorney Phone		Attorney Email		
Attorney Address		City	State	Zip		
Please state why the lien is disputed and if this dispute is already subject of litigation, please attach copies of the pleadings						
Do you understand that first year's premium is fully earned and the premium is an annual charge so long as the bond is at risk?					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Do you understand that the time period in which a suit must be filed (and thus the period of time the bond is at risk) does not begin until you have filed this bond, served notice, and recorded the bond, notice and certificate of mailings with the County Clerk?					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Do you understand that, if suit is filed, the Surety may allow your counsel to defend its interests on this bond at your expense, but that it reserves the right to retain its own counsel at your expense? Please note that any tender of our defense to your counsel will be subject to approval of counsel and the execution of a written tender agreement.					<input type="checkbox"/> Yes <input type="checkbox"/> No	

Indemnification Agreement - Read Carefully and Sign

IN CONSIDERATION of the execution of the bond for which application is made, the undersigned (collectively, "Applicant") for themselves, their personal representatives, heirs, successors and assigns, hereby agree with, warrant and represent to, and bind themselves jointly and severally to, SureTec Insurance Company and its co-sureties, re-insurers, and any other company which may execute a bond or bonds at the request of SureTec Insurance Company (individually and collectively called "SureTec") as follows:

1. Applicant agrees to pay SureTec an advanced premium for the first year or a fractional part thereof that is earned and the amount due annually thereafter in accordance with SureTec's then current premium rates or any minimum earned premium until SureTec shall be discharged or released from any and all liability and responsibility under said bond, and all matters arising therefrom, and until competent written legal evidence of such discharge or release, satisfactory to SureTec, is furnished to SureTec.
2. Applicant agrees that SureTec may make any credit checks, including consumer and investigative credit checks, it deems necessary.
3. Applicant warrants and represents that the questions answered and information furnished in connection with the application are true and correct.
4. Applicant agrees to indemnify and keep indemnified SureTec and its agents and representatives and hold and save it them harmless from and against any and all liability, damage, loss, cost and expense of whatsoever kind or nature, including consul and attorney's fee, which SureTec or its agents or representatives may at any time sustain or incur by reason or in consequence of have executed or procured the execution of the bond or enforcing this agreement against any of the undersigned or in procuring or in attempting to procure its release from liability under the bond.

5. If SureTec shall set up a reserve to cover any liability, claims, suit or judgment under said bond, the undersigned will, immediately upon demand, deposit with SureTec a sum of money, equal to such reserve and any increase thereof, to be held by SureTec as collateral security on said bond. Any such collateral shall be available, in the discretion of SureTec, as collateral security on any other or all bonds heretofore or hereafter executed for at the requests of any of the undersigned.
6. If SureTec shall procure any other company or companies to execute or join with it in executing, or to reinsure said bonds, this instrument shall insure to the benefit of such other company or companies, its or their successors and assigns, so as to give it or them a direct right of actions against the indemnitors to enforce the provisions of this instrument.
7. An itemized statement of payments made by SureTec, sworn to by an officer of SureTec, shall be *prima facie* evidence of the liability of the undersigned to reimburse SureTec for such payments with interests.
8. SureTec in its sole discretion and without notice to the undersigned, is hereby authorized but not required from time to time: (a) make or consent to any change in said bond or to issue any substitutes for any renewal thereof, and this instrument shall apply to such substituted or changed bond or renewal; (b) take such action as it may deem appropriate to prevent or minimize loss under said bond, including but not limited to steps to procure discharge from liability under said bonds, and (c) adjust, settle or compromise any claim or suit arising under said bond and, with respect to any such claims or suits, to take any action it may deem appropriate and any adjustment, settlement or compromise made or action taken by SureTec shall be conclusive against and binding upon the undersigned. A facsimile of this Agreement shall be considered an original and shall be admissible in a court of law to the same extent as an original copy.
9. Each of the undersigned agrees to pay the full amount of the foregoing regardless of (a) the failure of the principal or any applicant or indemnitor to sign any such bond or (b) any claims that other indemnity, security or collateral was to have been obtained or (c) the release, return or exchange by SureTec with or without the consent of the undersigned, of any indemnity, security, or collateral that may have been obtained or (d) the fact that any party signing this instrument is not bound for any reason.
10. The undersigned hereby expressly waive notice from SureTec of any claims or demand made against SureTec or the principal under the bond or of any information SureTec may receive concerning the principal, any contract, or bond. SureTec shall have the right to decline any or all bonds herein applied for and shall have the right to withdraw from or cancel the same at any time, all without incurring any liability to the undersigned.
11. Whenever used in this instrument the plural term shall include the singular and the singular shall include the plural, as the circumstances require. If any portion of this agreement be in conflict with any law controlling the construction hereof, such portion of this instrument shall be considered to be deleted and the remainder shall continue in full force and effect.
12. All obligations of the principal, applicants, and indemnitors to SureTec are due, payable, and performable in Houston, Harris County, Texas, where venue of any action to enforce this agreement may be brought by SureTec. SureTec shall be entitled to recover all attorney's fees (including those of attorneys employed by SureTec), consulting fees, and claims adjustment expenses in defending any claims made against its bonds or in enforcing any of its rights under this Agreement.
13. In consideration of the execution by SureTec of the suretyship herein applied for, each of the undersigned, jointly and severally, agree to be bound by all of the terms of the foregoing indemnity agreement executed by the applicant, as fully as though each of the undersigned were the sole applicant named herein, and admit to being financially interested in the performance of the obligation, which the suretyship applied for is given to secure.

Important Signature Instructions

- If sole owner, applicant must sign as duly authorized representative. Spouse must sign as additional indemnitor below.
- If a general partnership, an authorized partner must sign as duly authorized representative. All authorized partners and spouses must sign as additional indemnitor below.
- If a corporation the president must sign as the authorized representative. All stockholders of 10% or more and spouses must sign as additional indemnitor below.

Signed and dated this _____ day of _____, 20____

_____ **X** _____
 Print Name (Principal's authorized representative) (Title)

Additional Indemnitors

_____ **X** _____
 Witness (Print Name)

_____ **X** _____
 Witness (Print Name)

**AGENTS AND UNDERWRITERS:
PLEASE FURNISH THIS IMPORTANT MESSAGE TO THE BOND
APPLICANT**

**IMPORTANT INFORMATION REGARDING BONDS TO
INDEMNIFY AGAINST LIENS (“LIEN RELEASE BONDS”)**

The Mechanic’s and Materialmen’s Lien laws of Texas grant contractors and their subcontractors and suppliers certain rights against real property. Specifically, they are allowed to file an affidavit claiming an involuntary lien against an owner’s property to secure the amounts they claim to be owed. The process is rather simple and does not involve the initial filing of a law suit, as laws in some other states require. As a result, it is not uncommon for a property owner or a contractor working for that owner, to be confronted with a lien claim they dispute, but which is holding up a closing, sale, or re-financing. Subchapter H of the Texas Property Code provides the owner or other person interested in removing the lien a vehicle to do so; A “Bond to Indemnify Against Lien,” often referred to as a Lien Release bond.

Lien Release Bonds can be tricky to use and almost always result in a law suit being filed against the bond applicant and the surety. Rarely will SureTec issue such bonds without full collateral.

The Lien Release Bond must meet the requirements of Subchapter H to effect the removal of a lien affidavit. SureTec’s standard “Bond to Indemnify Against Lien” form meets those requirements, but we are occasionally asked to use bonds prepared by title companies and outside attorneys. The bond applicant should pay close attention to the forms they are requesting us to issue, as minor deviations from the statutory requirements may result in the bond not achieving the desired result.

The bond must be in an amount that is double the amount of the liens referred to in the bond unless the total amount claimed in the liens exceeds \$40,000. If the lien exceeds \$40,000, the bond must be in an amount that is the greater of 1-1/2 times the amount of the liens or the sum of \$40,000 and the amount of the liens.

The bond, once properly prepared and signed, must be filed with the County Clerk of the County in which the lien is filed, not once, but twice! First, the bond is to be filed of record with the County Clerk. The County Clerk then issues a Notice of the Bond (which you or your attorney will often have to prepare for the County Clerk). That Notice must be served on the obligee of the bond (the lien claimant) by certified mail, return receipt requested. The Bond, a copy of the Notice, and a

Certificate of Mailing (which you will also often have to prepare) must then be filed with the County Clerk.

If the bond is properly prepared, filed, served, and filed again, a purchaser, insurer of title, or lender may rely on and is absolutely protected by the record of the bond and the notice to the same extent as if the lien claimant had filed a release of lien in the real property records. The release of the lien does not, however, release the lien claimant's contractual claims against parties with whom the client claimant had a direct contractual relationship.

The lien claimant must file suit on the bond within the earlier of one year after the date the bond was served or the date the underlying lien becomes unenforceable as a matter of law. If the Notice of the Bond filing is not properly served, that one year period does not begin to run. Accordingly, it is to the bond applicant's advantage to serve the bond as soon as possible after it is executed and the Notice of Filing is prepared by the County Clerk.

When and if suit is filed against the bond, the bond applicant will have to retain its own counsel to defend the suit. The bond applicant is also obligated to indemnify and hold SureTec harmless and reimburse us for all costs associated with our defense of the suit. In some cases, we will allow the bond applicant's counsel to represent SureTec as well, in order to save legal expenses. But, this is allowed only if counsel agrees to our terms of engagement.

The bond premium is an annual premium and will continue to accrue until all liability under the bond has been released or has been extinguished as a matter of law. Collateral will also be held for at least the same period of time.

The complete text of Subchapter H of the Property Code is attached for your benefit. If you have questions, please contact our Commercial Bond Department or our General Counsel, Steve Nelson, at (512) 330-1850 or snelson@suretec.com.

**SUBCHAPTER H. BOND TO INDEMNIFY AGAINST LIEN
TEXAS PROPERTY CODE**

§ 53.171. BOND. (a) If a lien, other than a lien granted by the owner in a written contract, is fixed or is attempted to be fixed by a recorded instrument under this chapter, any person may file a bond to indemnify against the lien.

(b) The bond shall be filed with the county clerk of the county in which the property subject to the lien is located.

(c) A mechanic's lien claim against an owner's property is discharged after:

- (1) a bond that complies with Section 53.172 is filed;
- (2) the notice of the bond is issued as provided by Section 53.173; and
- (3) the bond and notice are recorded as provided by Section 53.174.

§ 53.172. BOND REQUIREMENTS. The bond must:

- (1) describe the property on which the liens are claimed;
- (2) refer to each lien claimed in a manner sufficient to identify it;
- (3) be in an amount that is double the amount of the liens referred to in the bond unless the total amount claimed in the liens exceeds \$40,000, in which case the bond must be in an amount that is the greater of 1-1/2 times the amount of the liens or the sum of \$40,000 and the amount of the liens;
- (4) be payable to the parties claiming the liens;
- (5) be executed by:
 - (A) the party filing the bond as principal; and
 - (B) a corporate surety authorized and admitted to do business under the law in this state and licensed by this state to execute the bond as surety, subject to Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code); and
- (6) be conditioned substantially that the principal and sureties will pay to the named obligees or to their assignees the amount that the named obligees would have been entitled to recover if their claims had been proved to be valid and enforceable liens on the property.

§ 53.173. NOTICE OF BOND. (a) After the bond is filed, the county clerk shall issue notice of the bond to all named obligees.

- (b) A copy of the bond must be attached to the notice.

(c) The notice must be served on each obligee by mailing a copy of the notice and the bond to the obligee by certified United States mail, return receipt requested, addressed to the claimant at the address stated in the lien affidavit for the obligee.

(d) If the claimant's lien affidavit does not state the claimant's address, the notice is not required to be mailed to the claimant.

§ 53.174. RECORDING OF BOND AND NOTICE. (a) The county clerk shall record the bond, the notice, and a certificate of mailing in the real property records.

(b) In acquiring an interest in or insuring title to real property, a purchaser, insurer of title, or lender may rely on and is absolutely protected by the record of the bond and the notice to the same extent as if the lien claimant had filed a release of lien in the real property records.

§ 53.175. ACTION ON BOND. (a) A party making or holding a lien claim may not sue on the bond later than one year after the date on which the notice is served or after the date on which the underlying lien claim becomes unenforceable under Section 53.158.

(b) The bond is not exhausted by one action against it. Each named obligee or assignee of an obligee may maintain a separate suit on the bond in any court of jurisdiction in the county in which the real property is located.

(Must Be on Letterhead of Bank)

CLEAN IRREVOCABLE LETTER OF CREDIT NO. _____

Date: _____

SureTec Insurance Company
1330 Post Oak Blvd., Suite 1100
Houston, TX 77056

Gentlemen:

At the request of _____ (account name
arranging credit) we, _____
(name and address of bank) have opened a CLEAN IRREVOCABLE LETTER OF CREDIT
in your favor up to an aggregate of \$ _____ (amount) U.S. Dollars.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF
CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S)
drawn on us at _____ (address
of bank) on or before the expiration date or on or before any automatically extended date
as set forth below. Our obligation under this Letter of Credit is the individual obligation
of the Bank, in no way contingent upon reimbursement with respect thereto, or upon our
ability to perfect any lien or security interest.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires on _____
(expiration date) but will be automatically extended for additional consecutive one year
terms if you have not received by Registered Mail notification of our intention not to
renew 30 days prior to the original expiry date and each subsequent expiry date. Such
notification shall be to the attention of Surety Department at the above address.

THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND
PRACTICE FOR DOCUMENTARY CREDIT (1993 REVISION) INTERNATIONAL
CHAMBER OF COMMERCE PUBLICATION NO. 600 (2007 REVISION).

(Authorized Signature)

(Title)

(Copy of Resolution and/or Board Minutes authorizing signatory is to be attached.)