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Construction Lenders Beware: Unbonded Stop-Payment Notices May Be Worth More Than The Paper They Are Written On

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A common perception in the construction industry is that the most valuable part of an unbonded stop payment notice is the paper it is written on, at least when it is served on a construction lender. While an unbonded stop payment notice may be effective against the project owner holding construction funds, it is understood to be ineffective against a construction lender. This understanding stems from the language of the stop payment notice statute, which provides that a construction lender may, but is not obligated to, withhold construction loan funds if it is served with an unbonded stop payment notice. Stop payment notice claimants construe the optional nature of a construction lender's withholding obligation as a rule of law barring endorsement of unbonded stop payment notices.

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