



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 203

WITHDRAWN

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

Page 1 of 1

H203-ARV-35 [v.1]

Comm. Sub. [NO]
Amends Title [NO]
Second Edition

Date June 26, 2012

Senator Apodaca

1 moves to amend the bill on page 3, line 50 by deleting the word " file " and substituting the
2 words " present for filing ";
3 and on page 4, lines 5-12 by rewriting those lines to read:
4 "(b) In the case of a record presented for filing, if the entity receiving the filing has a
5 reasonable suspicion that the lien or encumbrance is false, the entity may refuse to file the lien
6 or encumbrance. No entity shall be liable for filing or refusing to file a lien or encumbrance
7 under this section. If the filing of the lien or encumbrance is denied, the entity shall allow the
8 filing of a Notice of Denied Lien Filing on a form approved by the Administrative Office of the
9 Courts. The Notice of Denied Lien Filing shall not itself constitute a lien or encumbrance. If
10 the filing of the lien or encumbrance is denied, any interested person may file a special
11 proceeding in the county where the entity is located asking the court to find that the proposed
12 filing has a statutory or contractual basis and to order that the document be filed. If, after
13 hearing, upon a minimum of 5 days' notice and opportunity to be heard to all interested persons
14 and all persons claiming an ownership interest in the property, the court finds that there is a
15 statutory or contractual basis for the proposed filing, the court shall order the document filed
16 without adversely affecting the lien or encumbrance's original priority interest which shall be
17 based on the time of the filing of the Notice of Denied Lien Filing form. If the court finds that
18 there is no statutory or contractual basis for the proposed filing, the court shall order that the
19 proposed filing is null and void and that it shall not be filed, indexed, docketed or recorded and
20 a copy of that order shall be filed by the entity that originally denied the filing. The review by
21 the judge under this subsection is a ministerial act only and shall not be deemed a finding as to
22 any underlying claim of the parties involved."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

