

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 1102
May 15, 2014
HOUSE PRINCIPAL CLERK

H

D

HOUSE DRH30618-MNz-15D (02/19)

Short Title: Mechanics Liens - Clarify Lien Agent Notice. (Public)

Sponsors: Representatives Stevens and Arp (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE INFORMATION REQUIRED TO BE PROVIDED IN A
3 NOTICE TO LIEN AGENT, AS RECOMMENDED BY THE LRC COMMITTEE ON
4 MECHANICS LIENS AND LEASEHOLD IMPROVEMENTS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 44A-11.1(a) reads as rewritten:

7 "§ 44A-11.1. Lien agent; designation and duties.

8 (a) With regard to any improvements to real property to which this Article is applicable
9 for which the costs of the undertaking are thirty thousand dollars (\$30,000) or more, either at
10 the time that the original building permit is issued or, in cases in which no building permit is
11 required, at the time the contract for the improvements is entered into with the owner, the
12 owner shall designate a lien agent no later than the time the owner first contracts with any
13 person to improve the real property. Provided, however, that the owner is not required to
14 designate a lien agent for improvements to an existing single-family residential dwelling unit as
15 defined in G.S. 87-15.5(7) that is occupied by the owner as a residence, or for the addition of an
16 accessory building or accessory structure as defined in the North Carolina Uniform Residential
17 Building Code, the use of which is incidental to that residence. The owner shall deliver written
18 notice of designation to its designated lien agent by any method authorized in G.S. 44A-11.2(f),
19 and shall include in its notice the street address, tax map lot and block number, reference to
20 recorded instrument, or any other description that reasonably identifies the real property for the
21 improvements to which the lien agent has been designated, and the owner's contact
22 information. Designation of a lien agent pursuant to this section does not make the lien agent an
23 agent of the owner for purposes of receiving a Claim of Lien on Real Property, a Notice of
24 Claim of Lien upon ~~Funds-Funds~~, a Notice of Subcontract, or for any purpose other than the
25 receipt of notices to the lien agent required under G.S. 44A-11.2."

26 SECTION 2. G.S. 44A-11.2 reads as rewritten:

27 "§ 44A-11.2. Identification of lien agent; notice to lien agent; effect of notice.

28 ...

29 (i) The form of the notice to be given under this section shall be legible, shall include
30 the following information unless designated as "if available," and shall be substantially as
31 follows:

32 NOTICE TO LIEN AGENT

- 33 (1) Potential lien claimant's name, mailing address, telephone number, fax
34 number (if available), and electronic mailing address (if available):
35 (2) Name of the party with whom the potential lien claimant has contracted to
36 improve the real property described below:



* D R H 3 0 6 1 8 - M N Z - 1 5 D *

1 (3) A description of the real property sufficient to identify the real property,
2 such as the name of the project, if applicable, the physical address as shown
3 on the building permit or notice received from the owner:

4 (4) I give notice of my right subsequently to pursue a claim of lien for
5 improvements to the real property described in this notice.

6 Dated: _____

7 _____
8 Potential Lien Claimant

9 (j) The service of the Notice to Lien Agent does not satisfy the service or filing
10 requirements applicable to a Notice of Subcontract under Part 2 of Article 2 of this Chapter, a
11 Notice of Claim of Lien upon Funds under Part 2 of Article 2 of this ~~Chapter~~ Chapter, or a
12 Claim of Lien on Real Property under Part 1 or Part 2 of Article 2 of this Chapter. A Notice to
13 Lien Agent shall not be combined with or make reference to a Notice of Subcontract or Notice
14 of Claim of Lien upon Funds as described in this subsection.

15"

16 **SECTION 2.** This act becomes effective October 1, 2014, and applies to Notices to
17 Lien Agent served on or after that date.