

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS35269-MQf-88 (03/16)

Short Title: Lien Agent/Notice of Cancellation.

(Public)

Sponsors: Senator Lee (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES GOVERNING LIEN
3 AGENTS FOR THE PURPOSE OF PROVIDING FOR THE CANCELLATION OF A
4 NOTICE TO LIEN AGENT.

5 The General Assembly of North Carolina enacts:

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

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

8 ...
9 (f) Any attorney who, in connection with a transaction involving improved real
10 property subject to this section for which the attorney is serving as the closing attorney,
11 contacts the lien agent in writing and requests copies of the notices to lien agent and
12 cancellations of notice to lien agent received by the lien agent relating to the real property not
13 more than five business days prior to the date of recordation of a deed or deed of trust on the
14 real property, shall be deemed to have fulfilled the attorney's professional obligation as closing
15 attorney to check such notices to lien agent and cancellations of notice to lien agent and shall
16 have no further duty to request that the lien agent provide information pertaining to notices or
17 cancellations received subsequently by the lien agent."

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

19 "§ 44A-11.2. Identification of lien agent; notice to lien agent; effect of notice.

20 ...
21 (q) For any improvement to real property subject to G.S. 44A-11.1, if a potential lien
22 claimant has been paid an amount satisfactory to resolve the Notice to Lien Agent previously
23 filed, the potential lien claimant may file a Cancellation of Notice to Lien Agent with the
24 designated lien agent within 15 days of receipt of payment utilizing an Internet Web site,
25 approved for such use by the designated lien agent, containing all information required to
26 notify the lien agent of the cancellation. A potential lien claimant may file a Cancellation of
27 Notice to Lien Agent with the designated lien agent for any reason at any time. A Cancellation
28 of Notice to Lien Agent may only be filed for preexisting Notice to Lien Agent filings.

29 (r) The Cancellation of Notice to Lien Agent to be given pursuant to subsection (q) of
30 this section shall include the following information:

31 CANCELLATION OF NOTICE TO LIEN AGENT

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



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) Date, entry number, and other identifying information about the Notice to
 5 Lien Agent to be cancelled:

6 (5) I give notice of my cancellation of my Notice to Lien Agent and my release
 7 and waiver of the corresponding protections under G.S. 44A-11.2 regarding
 8 the real property described in this notice.

9 (6) Date of execution of the Cancellation of Notice to Lien Agent:

10 (7) Person executing the Cancellation of Lien Notice to Lien Agent on behalf of
 11 the Potential Lien Claimant:

12 (s) A Cancellation of Notice to Lien Agent received by the lien agent from a potential
 13 lien claimant shall have the effect of cancelling and discharging the Notice to Lien Agent and
 14 the corresponding protections provided under this section as to the subject matter of the notice
 15 to lien agent. A later filed Notice to Lien Agent filed by the potential lien claimant for
 16 improvements to same real property would only have the protections provided under this
 17 section from the date of the filing of the later filed notice, and such a notice or claim would not
 18 relate back to or renew the cancelled filing.

19 (t) A Notice to Lien Agent is discharged five years from the date of filing if not
 20 cancelled or renewed pursuant to the procedures described in this section."

21 **SECTION 3.** G.S. 58-26-45 reads as rewritten:

22 "**§ 58-26-45. Registration as a lien agent.**

23 ...

24 (b) Upon receipt of the notice of designation by the owner pursuant to G.S. 44A-11.1, a
 25 lien agent shall have the duty to do all of the following:

26 ...

27 (9) Receive cancellations of notices to lien agent and renewals of notice to lien
 28 agent delivered by potential lien claimants pursuant to G.S. 44A-11.2.

29 ...

30 (d) For services rendered pursuant to each designation as a lien agent for improvements
 31 to real property comprising one- or two-family dwellings, a lien agent shall collect a fee of
 32 ~~twenty-five~~thirty dollars ~~(\$25.00)~~(\$30.00) from the owner. For services rendered pursuant to
 33 each designation as a lien agent for all other improvements to real property, the lien agent shall
 34 collect a fee of ~~fifty-fifty-eight~~ dollars ~~(\$50.00)~~(\$58.00) from the owner.

35 (e) The Department shall publish on its Web site a current list of lien agents registered
 36 pursuant to this section."

37 **SECTION 4.** This act becomes effective January 1, 2018.