

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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BILL DRAFT 2013-MNz-15B [v.5] (02/19)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

3/12/2014 10:31:06 AM

Short Title: Mechanics Liens - Leased Public Property.

(Public)

Sponsors: Representative Unknown.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENHANCE THE PROTECTION PROVIDED TO PERSONS MAKING
3 IMPROVEMENTS TO LEASED REAL PROPERTY UNDER ARTICLE 3 OF
4 CHAPTER 44A.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 44A-26 reads as rewritten:

7 **"§ 44A-26. Bonds required.**

8 (a) When the total amount of construction contracts awarded for any one project
9 exceeds three hundred thousand dollars (\$300,000), a performance and payment bond as set
10 forth in (1) and (2) is required by the contracting body from any contractor or construction
11 manager at risk with a contract more than fifty thousand dollars (\$50,000); provided that, for
12 State departments, State agencies, and The University of North Carolina and its constituent
13 institutions, a performance and payment bond is required in accordance with this subsection if
14 the total amount of construction contracts awarded for any one project exceeds five hundred
15 thousand dollars (\$500,000). In the discretion of the contracting body, a performance and
16 payment bond may be required on any construction contract as follows:

17 (1) A performance bond in the amount of one hundred percent (100%) of the
18 construction contract amount, conditioned upon the faithful performance of
19 the contract in accordance with the plans, specifications and conditions of
20 the contract. Such bond shall be solely for the protection of the contracting
21 body that is constructing the project.

22 (2) A payment bond in the amount of one hundred percent (100%) of the
23 construction contract amount, conditioned upon the prompt payment for all
24 labor or materials for which a contractor or subcontractor is liable. The
25 payment bond shall be solely for the protection of the persons furnishing
26 materials or performing labor for which a contractor, subcontractor, or
27 construction manager at risk is liable.

28 (b) The performance bond and the payment bond shall be executed by one or more
29 surety companies legally authorized to do business in the State of North Carolina and shall
30 become effective upon the awarding of the construction contract.

31 (c) No lease or other contract provision shall be effective to exempt, from the
32 requirements of this Article, a project otherwise subject to the requirements of subsection (a) of
33 this section, and any contract provision that purports to do so is void and unenforceable as
34 against public policy.



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1 (d) A person that leases real property from a contracting body shall require performance
2 and payment bonds meeting the requirements of subdivisions (a)(1) and (a)(2) of this section
3 for construction, reconstruction, alteration, or repair of any public building or public work on
4 the leased real property if all of the following apply:

5 (1) The contracting body requires the lessee to construct, reconstruct, alter, or
6 repair any public building or public work on the leased real property.

7 (2) This Article would require the contracting body to require performance and
8 payment bonds from contractors or construction managers if the contracting
9 body had entered into a construction contract for the work required of the
10 lessee.

11 (e) Subsections (c) and (d) of this section do not apply to public-private partnership
12 construction contracts that are subject to G.S. 143-128.1C."

13 **SECTION 2.** This act becomes effective October 1, 2014, and applies to leases or
14 other contracts entered into on or after the effective date.