

Chapter 44A. Statutory Liens and Charges
Article 2. Statutory Liens on Real Property
Part 1. Liens of Mechanics, Laborers, and Materialmen
Dealing with Owner.

N.C.G.S.A. § 44A-9.1

§ 44A-9.1. Notice of Nonresponsibility

Effective: _____

(a) A contractor who contracts for the improvement of real property, wherein the owner holds only a leasehold interest, may, to the extent of the claim, enforce the claim of lien on real property against the interest of the owner of the fee simple interest in the real property, provided:

- (1) The contractor serves the owner of the fee simple interest in the real property with a Notice of Potential Lien Claimant in compliance with G.S. § 44A-9.1(b); and
- (2) The owner of the fee simple interest in the real property fails to serve a Notice of Nonresponsibility in compliance with G.S. § 44A-9.1(c).

(b) The Notice of Potential Lien Claimant shall be in writing and contain the following:

- (1) Name and address of the owner of the fee simple interest in the real property at the time this Notice of Potential Lien Claimant is served;
- (2) Name and address of the owner of the leasehold interest in the real property;

- (3) Description of the real property to be improved (Street address, tax lot and block number, reference to recorded instrument, or any other description is sufficient, whether or not it is specific, if it reasonably identifies the real property);
- (4) Name and address of the party with whom the Potential Lien Claimant may contract for the improvement of the real property;
- (5) General description of the labor to be performed or materials to be furnished for the improvement of the real property;
- (6) "Owner of the real property set out herein is notified that within ten (10) days of service of this Notice of Potential Lien Claimant, you are required to serve the undersigned with a Notice of Nonresponsibility and failure to do so within the time provided by G.S. § 44A-9.1 shall permit the undersigned, to the extent of his claim, to enforce a claim of lien against the real property consistent with Chapter 44A of the North Carolina General Statutes.
- (7) Name, address and signature of the person, firm or corporation serving the Notice of Potential Lien Claimant.

The Notice of Potential Lien Claimant shall be served upon the owner of the fee simple interest in the real property no later than five (5) days from the Potential Lien Claimant's first date of furnishing labor or materials for the improvement of the real property. Proof of service of the Notice of Potential Lien Claimant shall be in any manner authorized by G.S. § 1A-1, Rule 4.

(c) Notice of Nonresponsibility from Owner of real property.

(1) An owner of the fee simple interest in the real property, who is notified by a Potential Lien Claimant, pursuant to section (b) above, and with whom this owner did not contract, may give notice to the Potential Lien Claimant of nonresponsibility for the improvement of the real property.

(2) The Notice of Nonresponsibility under this section shall be in writing and include all of the following information to the extent known to the person giving the notice:

- i. The name and address of the owner of the real property and the nature of the owner's title or interest in the real property;
- ii. The name and address of the leasehold owner and the nature of the leasehold owner's title or interest in the real property;

iii. A statement that the owner of the fee simple interest in the real property is not responsible for claims arising of the Potential Lien Claimant for labor to be performed or materials to be furnished for the improvement of the real property.

(3) A Notice of Nonresponsibility is not effective unless, within ten (10) days after service of a valid Notice of Potential Lien Claimant, the owner of the fee simple interest in the real property serves the Potential Lien Claimant with a Notice of Nonresponsibility as provided herein. Proof of service of the Notice of Nonresponsibility shall be in any manner authorized by G.S. § 1A-1, Rule 4.

(4) A valid Notice of Nonresponsibility shall be otherwise subject to Chapter 44A of the North Carolina General Statutes and shall not create any presumption, be asserted in defense of or serve as a bar against any other basis under which a contractor may be permitted to enforce a claim of lien against the real property.

Chapter 44A. Statutory Liens and Charges
Article 2. Statutory Liens on Real Property
Part 2. Liens of Mechanics, Laborers, and Materialmen
Dealing with One Other Than Owner

N.C.G.S.A. § 44A-23.1

§ 44A-23.1. Notice of Nonresponsibility

Effective: _____

(a) A first tier subcontractor, second tier subcontractor, or third tier subcontractor who contracts for the improvement of real property, wherein the owner holds only a leasehold interest, may, to the extent of the claim, enforce the claim of lien on real property of the contractor against the interest of the owner of the fee simple interest in the real property, provided:

(1) The subcontractor serves the owner of the fee simple interest in the real property with a Notice of Potential Lien Claimant in compliance with G.S. § 44A-23.1(b); and

(2) The owner of the fee simple interest in the real property fails to serve a Notice of Nonresponsibility in compliance with G.S. § 44A-23.1(c).

(b) The Notice of Potential Lien Claimant shall be in writing and contain the following:

- (1) Name and address of the owner of the fee simple interest in the real property at the time this Notice of Potential Lien Claimant is served;
- (2) Name and address of the owner of the leasehold interest in the real property;
- (3) Name and address of the contractor, if known. If the Potential Lien Claimant does not know who is contracted with the owner of the leasehold interest, the Potential Lien Claimant shall enter "contractor unknown";
- (4) Description of the real property to be improved (Street address, tax lot and block number, reference to recorded instrument, or any other description is sufficient, whether or not it is specific, if it reasonably identifies the real property);
- (5) Name and address of the party with whom the Potential Lien Claimant may contract for the improvement of the real property;
- (6) General description of the labor to be performed or materials to be furnished for the improvement of the real property;
- (7) "Owner of the real property set out herein is notified that within ten (10) days of service of this Notice of Potential Lien Claimant, you are required to serve the undersigned with a Notice of Nonresponsibility and

failure to do so within the time provided by G.S. §§ 44A-23.1 shall permit the undersigned, to the extent of his claim, to enforce a claim of lien against the real property consistent with Chapter 44A of the North Carolina General Statutes.

- (8) Name, address and signature of the person, firm or corporation serving the Notice of Potential Lien Claimant.

The Notice of Potential Lien Claimant shall be served upon the owner of the fee simple interest in the real property no later than five (5) days from the Potential Lien Claimant's first date of furnishing any labor or materials for the improvement of the real property. Proof of service of the Notice of Potential Lien Claimant shall be in any manner authorized by G.S. § 1A-1, Rule 4.

- (c) Notice of Nonresponsibility from Owner of real property.

- (1) An owner of the fee simple interest in the real property, who is notified by a Potential Lien Claimant, pursuant to section (b) above, and with whom this owner did not contract, may give notice to the Potential Lien Claimant of nonresponsibility for the improvement of the real property.

- (2) The Notice of Nonresponsibility under this section shall be in writing and include all of the following

information to the extent known to the person giving the notice:

- i. The name and address of the owner of the real property and the nature of the owner's title or interest in the real property;
- ii. The name and address of the leasehold owner and the nature of the leasehold owner's title or interest in the real property;
- iii. A statement that the owner of the fee simple interest in the real property is not responsible for claims of the Potential Lien Claimant for labor to be performed or materials to be furnished for the improvement of the real property.

(3) A Notice of Nonresponsibility is not effective unless, within ten (10) days after service of a valid Notice of Potential Lien Claimant, the owner of the fee simple interest in the real property serves the Potential Lien Claimant with a Notice of Nonresponsibility as provided herein. Proof of service of a Notice of Nonresponsibility shall be in any manner authorized by G.S. § 1A-1, Rule 4.

(4) A valid Notice of Nonresponsibility shall be otherwise subject to Chapter 44A of the North Carolina General Statutes and shall not create any presumption, be asserted in defense of or serve as a bar against any

other basis under which a subcontractor may be permitted to enforce a claim of lien against the real property.