

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 1102

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

Sponsors: Representatives Stevens and Arp (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee C.

May 19, 2014

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

...

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

NOTICE TO LIEN AGENT

- (1) Potential lien claimant's name, mailing address, telephone number, fax number (if available), and electronic mailing address (if available):



- 1 (2) Name of the party with whom the potential lien claimant has contracted to
- 2 improve the real property described below:
- 3 (3) A description of the real property sufficient to identify the real property,
- 4 such as the name of the project, if applicable, the physical address as shown
- 5 on the building permit or notice received from the owner:
- 6 (4) I give notice of my right subsequently to pursue a claim of lien for
- 7 improvements to the real property described in this notice.
- 8 Dated: _____
- 9 _____

10 Potential Lien Claimant

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

17"

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