

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 602

Short Title: Lien Agent/Notice of Cancellation. (Public)

Sponsors: Senator Lee (Primary Sponsor).

Referred to: Rules and Operations of the Senate

April 5, 2017

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES GOVERNING LIEN AGENTS FOR THE PURPOSE OF PROVIDING FOR THE CANCELLATION OF A NOTICE TO LIEN AGENT.

The General Assembly of North Carolina enacts:

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

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

...

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

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

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

...

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

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

CANCELLATION OF NOTICE TO LIEN AGENT

- (1) Potential lien claimant's name, mailing address, telephone number, fax number (if available), and electronic mailing address (if available):
- (2) Name of the party with whom the potential lien claimant has contracted to 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.