



HOUSE BILL 707: Lien Agent/Notice of Cancellation.

2017-2018 General Assembly

Committee:		Date:	August 11, 2017
Introduced by:		Prepared by:	Bill Patterson Staff Attorney
Analysis of:	S.L. 2017-168		

OVERVIEW: *S.L. 2017-168 provides that a lien agent notice automatically expires if it is not cancelled or renewed within five years after being given, and permits a contractor to renew a lien notice for one additional five-year period. For improvements to a one- or two-family dwelling, the act requires a lien notice to be cancelled within a reasonable time after the contractor confirms receipt of final payment for the work. The act also increases the fee an owner must pay to the designated lien agent. The act becomes effective October 1, 2018.*

CURRENT LAW: A person who provides labor or materials under a contract to improve privately-owned real property is granted a lien to secure payment owed under the contract. If the improvements cost \$30,000 or more, potential lien claimants must give the owner's designated lien agent notice of their involvement in the project to the owner's designated lien agent in order to preserve their lien rights.

The lien agent notice has no expiration date and there is no requirement that a potential lien claimant cancel the notice after receiving final payment due under the contract.

Closing attorneys who, within five days before recording a real property deed or deed of trust, contact the designated lien agent to request copies of any lien notices relating to the real property are deemed to have fulfilled their professional duty to check for lien notices and have no further duty to request notices subsequently received by the lien agent.

The owner's designated lien agent is required to receive any lien notices given by potential lien claimants and is entitled to a fee paid by the owner amounting to \$25 for services relating to improvements to one- or two-family dwellings and \$50 for services relating to all other improved real property.

BILL ANALYSIS:

Section 1 provides that closing attorneys who contact the designated lien agent to request copies of any cancellations or renewals of lien notices within five business days before recording a deed or deed of trust have satisfied their obligation to check for such cancellations or renewals and have no further duty to request cancellations or renewals subsequently received by the lien agent.

Section 2:

- Permits a potential lien claimant to cancel a lien agent notice using an Internet Web site approved by the owner's designated lien agent.
- Requires a potential lien claimant to cancel a lien agent notice for improvements to a one- or two-family dwelling within a reasonable time after confirming receipt of final payment for its work.
- Provides that a lien agent notice expires five years from its delivery unless either cancelled or renewed before then.

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Director



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- Permits a potential lien claimant to renew a lien notice for one additional five year period prior to its cancellation or expiration using an Internet Web site approved by the owner's designated lien agent, and provides that the renewed notice relates back to its original date of delivery to the lien agent.
- Provides that any protections a potential lien claimant receives as a result of its delivery of a notice to the lien agent terminate when the notice expires or is cancelled and are not revived or renewed by any subsequent delivery of a notice to the lien agent.
- Provides that cancellation or expiration of a lien agent notice does not affect the validity of a previously filed claim of lien on real property and does not affect the priority of lien rights.

Section 3 requires the designated lien agent to receive cancellations and renewals of any previously-received lien notices and increases the fee paid by an owner to its designated lien agent to \$30 for improvements to one- and two-family dwellings and to \$58 for all other improvements to real property.

EFFECTIVE DATE: This act becomes effective on October 1, 2018.

Brad Krehely, counsel to House Judiciary III, substantially contributed to his summary.