



HOUSE BILL 707: Lien Agent/Notice of Cancellation.

2017-2018 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 13, 2017
Introduced by:	Reps. Jordan, Stevens, B. Turner	Prepared by:	Bill Patterson Staff Attorney
Analysis of:	Third Edition		

OVERVIEW: *House Bill 707 would provide that a notice given to a lien agent to preserve the lien rights of a person providing labor or materials under a contract for improvements to real property would automatically expire if the notice is not cancelled or renewed within five years after being given. The bill would also permit a contractor to cancel the notice or renew it for one additional five-year period. For improvements to a one- or two-family dwelling, the bill would require cancellation of the lien agent notice within a reasonable time after the contractor's confirmation that it has received final payment for the work. The bill would also authorize an increase in the fee paid by an owner to its designated lien agent.*

[As introduced, this bill was identical to S602, as introduced by Sen. Lee, which is currently in Senate Judiciary.]

CURRENT LAW: Persons providing labor or materials under a contract for the improvement of privately-owned real property are granted a lien to secure payment of debts owing for their labor, professional design or surveying services, or materials or rental equipment furnished to improve the real property.

In order to preserve lien rights arising under contracts for improvements costing \$30,000 or more, G.S. 44A-11.2 requires a potential lien claimant to deliver a notice of its involvement in the project to an agent designated by the owner ("lien agent").

Notices to a lien agent currently do not have any expiration date, and there is no requirement or procedure for cancelling such a notice once the potential lien claimant has received final payment due under the contract.

G.S. 44A-11.1 provides that if, in connection with a transaction involving improved real property for which the owner is required to designate a lien agent, a closing attorney contacts the designated lien agent within five days of recording a deed or deed of trust on the real property to request copies of any notices received by the lien agent relating to the real property, then the attorney will be deemed to have fulfilled his or her professional obligation as closing attorney to check such notices and will have no further duty to request notices subsequently received by the lien agent.

G.S. 58-26-45 requires a lien agent designated by the owner of improved property to receive notices given by potential lien claimants providing labor or materials under a contract for improvements to the real property, and authorizes the lien agent to collect a fee from the owner upon being designated as the owner's lien agent in the amount of \$25 for services relating improvements to real property comprising one- or two-family dwellings and \$50 for services relating to all other improvements to real property.

BILL ANALYSIS:

Section 1 would amend G.S. 44A-11.1 to provide that a closing attorney can satisfy his or her professional obligation to check for cancellations or renewals of lien agent notices in connection with a real estate by requesting copies of cancellations or renewals of such notices from the designated lien agent within five

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 707

Page 2

business days before recording a deed or deed of trust on the real property, and that the attorney will have no further duty to request cancellations or renewals subsequently received by the lien agent.

Section 2 would amend G.S. 44A-11.2 to make the following changes:

- A potential lien claimant would be permitted to cancel a lien agent notice by using an Internet Web site approved by the owner's designated lien agent.
- For improvements to a one- or two-family dwelling, a potential lien claimant would be required to cancel a lien agent notice within a reasonable time after confirming its receipt of final payment for its work.
- A lien agent notice would expire five years from the date of its delivery if not cancelled or renewed before then.
- A potential lien claimant could renew the notice for one additional five year period prior to its cancellation or expiration using the approved Web site, and the renewed notice would relate back to the original date of its delivery to the lien agent.
- Any protections provided to a potential lien claimant by delivery of a lien agent notice would terminate upon cancellation or expiration of the notice and would not be revived or renewed by subsequent delivery of a notice to the lien agent.
- Cancellation or expiration of a lien agent notice would not affect the validity of a previously filed claim of lien on real property or the priority of lien rights.

Section 3 would amend G.S. 58-26-45 to require designated lien agents to receive cancellations and renewals of notices previously received by the lien agent. Section 3 would also increase the fee paid by the owner to its designated lien agent from \$25 to \$30 for improvements to one- and two-family dwellings and from \$50 to \$58 for all other improvements to real property.

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

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