

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

1

HOUSE BILL 1163*

Short Title: Rental Equip. Liens.

(Public)

Sponsors: Representatives McMahan; Allred, Clary, Pate, Rayfield, Reynolds, and Hill.

Referred to: Business & Labor, if favorable, Judiciary I.

May 15, 1996

A BILL TO BE ENTITLED

AN ACT TO PROVIDE LIENS ON REAL PROPERTY FOR THE FURNISHING OF RENTAL EQUIPMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-7 reads as rewritten:

"§ 44A-7. Definitions.

Unless the context otherwise requires in this Article:

(1) 'Improve' means to build, effect, alter, repair, or demolish any improvement upon, connected with, or on or beneath the surface of any real property, or to excavate, clear, grade, fill or landscape any real property, or to construct driveways and private roadways, or to furnish materials, including trees and shrubbery, for any of such purposes, or to perform any labor upon such improvements, and shall also mean and include any design or other professional or skilled services furnished by architects, engineers, land surveyors and landscape architects registered under Chapter 83A, 89A or 89C of the General Statutes. Statutes, and rental of equipment directly utilized on the real property in making the improvement.

(2) 'Improvement' means all or any part of any building, structure, erection, alteration, demolition, excavation, clearing, grading, filling, or

1 landscaping, including trees and shrubbery, driveways, and private
2 roadways, on real property.

3 (3) An 'owner' is a person who has an interest in the real property improved
4 and for whom an improvement is made and who ordered the
5 improvement to be made. 'Owner' includes successors in interest of the
6 owner and agents of the owner acting within their authority.

7 (4) 'Real property' means the real estate that is improved, including lands,
8 leaseholds, tenements and hereditaments, and improvements placed
9 thereon."

10 Sec. 2. G.S. 44A-8 reads as rewritten:

11 **"§ 44A-8. Mechanics', laborers' and materialmen's lien; persons entitled to lien.**

12 Any person who performs or furnishes labor or professional design or surveying
13 services or furnishes materials or furnishes rental equipment pursuant to a contract, either
14 express or implied, with the owner of real property for the making of an improvement
15 thereon shall, upon complying with the provisions of this Article, have a lien on such real
16 property to secure payment of all debts owing for labor done or professional design or
17 surveying services or material furnished or equipment rented pursuant to such contract."

18 Sec. 3. G.S. 44A-18 reads as rewritten:

19 **"§ 44A-18. Grant of lien; subrogation; perfection.**

20 Upon compliance with this Article:

21 (1) A first tier subcontractor who furnished ~~labor or materials~~ labor,
22 materials, or rental equipment at the site of the improvement shall be
23 entitled to a lien upon funds which are owed to the contractor with
24 whom the first tier subcontractor dealt and which arise out of the
25 improvement on which the first tier subcontractor worked or furnished
26 materials.

27 (2) A second tier subcontractor who furnished ~~labor or materials~~ labor,
28 materials, or rental equipment at the site of the improvement shall be
29 entitled to a lien upon funds which are owed to the first tier
30 subcontractor with whom the second tier subcontractor dealt and which
31 arise out of the improvement on which the second tier subcontractor
32 worked or furnished materials. A second tier subcontractor, to the extent
33 of his lien provided in this subdivision, shall also be entitled to be
34 subrogated to the lien of the first tier subcontractor with whom he dealt
35 provided for in subdivision (1) and shall be entitled to perfect it by
36 notice to the extent of his claim.

37 (3) A third tier subcontractor who furnished ~~labor or materials~~ labor,
38 materials, or rental equipment at the site of the improvement shall be
39 entitled to a lien upon funds which are owed to the second tier
40 subcontractor with whom the third tier subcontractor dealt and which
41 arise out of the improvement on which the third tier subcontractor
42 worked or furnished materials. A third tier subcontractor, to the extent
43 of his lien provided in this subdivision, shall also be entitled to be

- 1 subrogated to the lien of the second tier subcontractor with whom he
2 dealt and to the lien of the first tier subcontractor with whom the second
3 tier subcontractor dealt to the extent that the second tier subcontractor is
4 entitled to be subrogated thereto, and in either case shall be entitled to
5 perfect the same by notice to the extent of his claim.
- 6 (4) Subcontractors more remote than the third tier who furnished ~~labor or~~
7 ~~material~~ labor, materials, or rental equipment at the site of the
8 improvement shall be entitled to a lien upon funds which are owed to
9 the person with whom they dealt and which arise out of the
10 improvement on which they furnished ~~labor or material~~ labor, materials,
11 or rental equipment, but such remote tier subcontractor shall not be
12 entitled to subrogation to the rights of other persons.
- 13 (5) The liens granted under this section shall secure amounts earned by the
14 lien claimant as a result of his having furnished ~~labor or materials~~ labor,
15 materials, or rental equipment at the site of the improvement under the
16 contract to improve real property, whether or not such amounts are due
17 and whether or not performance or delivery is complete.
- 18 (6) A lien upon funds granted under this section is perfected upon the
19 giving of notice in writing to the obligor as provided in G.S. 44A-19
20 and shall be effective upon the obligor's receipt of the notice. The
21 subrogation rights of a first, second, or third tier subcontractor to the
22 lien of the contractor created by Part 1 of Article 2 of this Chapter are
23 perfected as provided in G.S. 44A-23."

24 Sec. 4. This act becomes effective July 1, 1996, and applies to lien rights that
25 arise on or after that date.