

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1163\*  
Committee Substitute Favorable 5/30/96

Short Title: Rental Equip. Liens.

(Public)

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Sponsors:

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Referred to:

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May 15, 1996

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE LIENS ON REAL PROPERTY FOR THE FURNISHING OF  
3 RENTAL EQUIPMENT.

4 The General Assembly of North Carolina enacts:

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

6 "**§ 44A-7. Definitions.**

7 Unless the context otherwise requires in this Article:

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

- 1 (2) 'Improvement' means all or any part of any building, structure, erection,  
2 alteration, demolition, excavation, clearing, grading, filling, or  
3 landscaping, including trees and shrubbery, driveways, and private  
4 roadways, on real property.
- 5 (3) An 'owner' is a person who has an interest in the real property improved  
6 and for whom an improvement is made and who ordered the  
7 improvement to be made. 'Owner' includes successors in interest of the  
8 owner and agents of the owner acting within their authority.
- 9 (4) 'Real property' means the real estate that is improved, including lands,  
10 leaseholds, tenements and hereditaments, and improvements placed  
11 thereon."

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

13 **"§ 44A-8. Mechanics', laborers' and materialmen's lien; persons entitled to lien.**

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

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

21 **"§ 44A-18. Grant of lien; subrogation; perfection.**

22 Upon compliance with this Article:

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

1 worked or furnished materials. A third tier subcontractor, to the extent  
2 of his lien provided in this subdivision, shall also be entitled to be  
3 subrogated to the lien of the second tier subcontractor with whom he  
4 dealt and to the lien of the first tier subcontractor with whom the second  
5 tier subcontractor dealt to the extent that the second tier subcontractor is  
6 entitled to be subrogated thereto, and in either case shall be entitled to  
7 perfect the same by notice to the extent of his claim.

8 (4) Subcontractors more remote than the third tier who furnished ~~labor or~~  
9 ~~material—~~labor, materials, or rental equipment at the site of the  
10 improvement shall be entitled to a lien upon funds which are owed to  
11 the person with whom they dealt and which arise out of the  
12 improvement on which they furnished ~~labor or material,~~labor, materials,  
13 or rental equipment, but such remote tier subcontractor shall not be  
14 entitled to subrogation to the rights of other persons.

15 (5) The liens granted under this section shall secure amounts earned by the  
16 lien claimant as a result of his having furnished ~~labor or materials—~~labor,  
17 materials, or rental equipment at the site of the improvement under the  
18 contract to improve real property, whether or not such amounts are due  
19 and whether or not performance or delivery is complete.

20 (6) A lien upon funds granted under this section is perfected upon the  
21 giving of notice in writing to the obligor as provided in G.S. 44A-19  
22 and shall be effective upon the obligor's receipt of the notice. The  
23 subrogation rights of a first, second, or third tier subcontractor to the  
24 lien of the contractor created by Part 1 of Article 2 of this Chapter are  
25 perfected as provided in G.S. 44A-23."

26 Sec. 4. This act becomes effective October 1, 1996, and applies to lien rights  
27 that arise on or after that date.