

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 1101
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HOUSE PRINCIPAL CLERK

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HOUSE DRH30616-MNz-15B (02/19)

Short Title: Mechanics Liens - Leased Public Property. (Public)

Sponsors: Representatives Stevens and Arp (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENHANCE THE PROTECTION PROVIDED TO PERSONS MAKING
3 IMPROVEMENTS TO LEASED REAL PROPERTY UNDER ARTICLE 3 OF
4 CHAPTER 44A OF THE GENERAL STATUTES, AS RECOMMENDED BY THE LRC
5 COMMITTEE ON MECHANICS LIENS AND LEASEHOLD IMPROVEMENTS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 44A-26 reads as rewritten:

8 **"§ 44A-26. Bonds required.**

9 (a) When the total amount of construction contracts awarded for any one project
10 exceeds three hundred thousand dollars (\$300,000), a performance and payment bond as set
11 forth in (1) and (2) is required by the contracting body from any contractor or construction
12 manager at risk with a contract more than fifty thousand dollars (\$50,000); provided that, for
13 State departments, State agencies, and The University of North Carolina and its constituent
14 institutions, a performance and payment bond is required in accordance with this subsection if
15 the total amount of construction contracts awarded for any one project exceeds five hundred
16 thousand dollars (\$500,000). In the discretion of the contracting body, a performance and
17 payment bond may be required on any construction contract as follows:

18 (1) A performance bond in the amount of one hundred percent (100%) of the
19 construction contract amount, conditioned upon the faithful performance of
20 the contract in accordance with the plans, specifications and conditions of
21 the contract. Such bond shall be solely for the protection of the contracting
22 body that is constructing the project.

23 (2) A payment bond in the amount of one hundred percent (100%) of the
24 construction contract amount, conditioned upon the prompt payment for all
25 labor or materials for which a contractor or subcontractor is liable. The
26 payment bond shall be solely for the protection of the persons furnishing
27 materials or performing labor for which a contractor, subcontractor, or
28 construction manager at risk is liable.

29 (b) The performance bond and the payment bond shall be executed by one or more
30 surety companies legally authorized to do business in the State of North Carolina and shall
31 become effective upon the awarding of the construction contract.

32 (c) No lease or other contract provision shall be effective to exempt, from the
33 requirements of this Article, a project otherwise subject to the requirements of subsection (a) of
34 this section, and any contract provision that purports to do so is void and unenforceable as
35 against public policy.



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1 (d) A person that leases real property from a contracting body shall require performance
2 and payment bonds meeting the requirements of subdivisions (a)(1) and (a)(2) of this section
3 for construction, reconstruction, alteration, or repair of any public building or public work on
4 the leased real property if all of the following apply:

5 (1) The contracting body requires the lessee to construct, reconstruct, alter, or
6 repair any public building or public work on the leased real property.

7 (2) This Article would require the contracting body to require performance and
8 payment bonds from contractors or construction managers if the contracting
9 body had entered into a construction contract for the work required of the
10 lessee.

11 (e) Subsections (c) and (d) of this section do not apply to public-private partnership
12 construction contracts that are subject to G.S. 143-128.1C."

13 **SECTION 2.** This act becomes effective October 1, 2014, and applies to leases or
14 other contracts entered into on or after that date.