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Practice Group:

Real Estate

*Construction and
Engineering*

Changes to North Carolina's Mechanics' Lien Statute

By Brian P. Evans and Samuel T. Reaves

There are significant changes to North Carolina's mechanics' lien statute that take effect on **Monday, April 1, 2013**. These changes impose new duties on property owners regarding the designation of a private lien agent on almost every project. An owner's failure to follow these duties may result in the inability to obtain building permits, and also in a lien being given added priority or validity, so it is very important that owners become familiar with the new procedures under the statute.

The following summarizes the most important new duties imposed on property owners:

- The owner must now designate a "lien agent" for *every* construction project of \$30,000 or more, except for improvements to the owner's primary residence.
- The owner must designate the lien agent *very early in the project*, i.e., by the time the owner *first* contracts with *anyone* to improve the property.
- Only title insurance companies or agencies can serve as lien agents. The North Carolina Department of Insurance keeps a list of registered lien agents.
- An owner designates a lien agent by serving a written notice on the lien agent. The lien agent charges a fee for its service.
- Lien agent designations can be made online starting April 1, 2013 at <http://liensnc.com>. This website has a drop down menu with the list of agents that can be appointed. Normally the title insurance company insuring the owner's construction lender would be selected.
- The owner must provide the lien agent's contact information within seven days of a written request by any potential lien claimant.
- Either a building permit or a sign with the lien agent's contact information must be posted on the property until the completion of all construction.
- If the lien agent is identified in a contract for the construction of a single family residence, the owner must give an additional written notice to the lien agent with information about the contractor.
- If the lien agent is not identified in an owner/architect contract, the owner must give an additional written notice to the lien agent with information about the architect.

The new "lien agent" concept that is now included in the North Carolina mechanics' lien statute will necessitate adjustments in behavior by parties to real estate transactions and construction projects. K&L Gates lawyers are ready to help with any questions that arise under the new statute.

Changes to North Carolina's Mechanics' Lien Statue

Authors:

Brian P. Evans

brian.evans@klgates.com

+1.704.331.7479

Samuel T. Reaves

sam.reaves@klgates.com

+1.704.331.7412

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