

Construction Law in North Carolina

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Update/Correction to Lien Law post

by MelissaBrumback on March 4, 2011



After [my last post](#), I received a call from [Doug Jeremiah](#), who is the Chair of the Design Professionals Liason Committee (of which I am a member). According to Doug, the concerns I expressed for designers have been, if not eliminated, then significantly reduced by the current version of the draft lien law bill.

Designers, like any other party on the construction contract, can now file their own, separate Notice of Commencement, which would then (in all likelihood) pre-date other Notices of Commencement on the Project. To file a Notice of Commencement under the proposed bill, the Designer first must ask the Owner to file a Notice of Commencement. If the Owner does not do so, the Designer is free to file his own Notice of Commencement (See [section 44A-9.1 \(3\)\(c\)](#)). This is the same procedure used by Contractors to file a Notice of Commencement.

Practice Tip (should the bill pass):

How the Owner will view the request for an early Notice of Commencement may still be an issue. If the bill passes, a good, proactive discussion with the Owner should help prevent creating animosity. Better yet, you might consider a Company Policy of always having a Notice of Commencement filed on every project. That way, you can simply blame the “company policy” rather than implying, or having the Owner infer, that you don’t trust their financial viability.

Thanks, Doug, for setting me straight. Opinions or thoughts about the proposed lien law revisions? Drop me a line in the comments, below.

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