

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 489
Committee Substitute Favorable 5/25/11

Short Title: Mechanics Lien and Bond Law Changes.

(Public)

Sponsors:

Referred to:

March 29, 2011

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY
NORTH CAROLINA'S MECHANICS' LIEN AND BOND LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. The Legislative Research Commission may study North Carolina's mechanics' lien and bond laws and may make recommendations on ways to modernize and improve those laws and may propose legislation for consideration by the 2011 General Assembly, 2012 Regular Session, and the 2013 General Assembly. In its study, the Commission may consider all of the following:

- (1) Hidden mechanics' liens and requiring the filing and posting of Notices of Commencement and Notices to Owners as a means of preventing them.
- (2) Protecting general contractors from incurring double liability under payment bonds on public projects by requiring subcontractors to serve the contractor with notice that they are furnishing labor or materials on a project.
- (3) Protecting subcontractors and addressing bankruptcy court rulings that prevent subcontractors from perfecting and enforcing mechanics' liens after a bankruptcy is filed.
- (4) Ensuring that extremely small mechanics' liens do not hold up much larger pay applications.
- (5) Addressing any concerns produced by the Business Court's decision in *Wachovia v. Superior Construction*, under which a partial lien waiver could act to waive a contractor's first date of furnishing.
- (6) Addressing the current Notice of Contract problem created when a general contractor is hired to perform work on a project either directly or as a replacement contractor more than 30 days after the building permit is issued.
- (7) Creating standard statutory forms for partial and final lien waivers.
- (8) Providing all contractors who furnish work on a project and comply with applicable statutory requirements the same mechanics' lien priority date.
- (9) Providing a savings clause for contractors who fail to timely file and serve their Notice to Owner within 30 days from the first date of furnishing.
- (10) Providing a residential carve-out for owner-builder projects involving one- to four-unit residential structures.
- (11) Any other issues the Commission considers relevant to this topic.

SECTION 2. The Legislative Research Commission may make an interim report to the 2011 General Assembly, 2012 Regular Session, and shall make its final report to the 2013 General Assembly.



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SECTION 3. This act is effective when it becomes law.