

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS15153-MD-78A (3/3)

Short Title: Protect Third-Party Purchasers for Value.

(Public)

Sponsors: Senator Rand.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ADDRESS HIDDEN LIENS TO PROTECT THIRD-PARTY PURCHASERS FOR VALUE AND LENDERS IN REAL ESTATE TRANSACTIONS; AND TO MAKE IT A FELONY TO MAKE A WRITTEN FALSE STATEMENT OF SUMS DUE FOR LABOR OR MATERIAL FURNISHED TO REAL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 44A of the General Statutes is amended by adding a new section to read:

"§ 44A-12.2. Protection of third-party purchasers for value.

Notwithstanding any other provision of this Article, a claim of lien on real property granted by this Article, including any claim of lien arising under G.S. 44A-20 or G.S. 44A-23, shall not be effective against real property owned by purchasers for a valuable consideration, including trustees under deeds of trust on the real property and mortgagees under mortgages which secure indebtedness, whose interest has been registered in the office of the register of deeds of the county or counties in which the real property is located after the date of the first furnishing of labor or materials to the site of the improvement but prior in time to the filing of the claim of lien as provided for in G.S. 44A-12."

SECTION 2. G.S. 44A-24 reads as rewritten:

"§ 44A-24. False statement a ~~misdemeanor~~-felony.

If any contractor or other person receiving payment or other thing of value from an obligor for an improvement to real property or from a purchaser for a conveyance of real property with improvements shall knowingly furnish to such obligor, purchaser, or to a lender who obtains a security interest in said real property, or to a title insurance company insuring title to such real property, a false written statement of the sums due or claimed to be due for labor or material furnished at the site of improvements to such real property, then such contractor, subcontractor or other person shall be guilty of a Class 1 ~~misdemeanor~~-**H felony**. Upon conviction and in the event the court shall grant any defendant a suspended sentence, the court may in its discretion include as a condition of such suspension a provision that the defendant shall reimburse the party who suffered loss on such conditions as the court shall determine are proper.

The elements of the offense herein stated are the furnishing of the false written statement with knowledge that it is false and the ~~subsequent or simultaneous~~ receipt of ~~payment~~-payment or other thing of value from an obligor or purchaser, and in any prosecution hereunder it shall not be necessary for the State to prove that the obligor, purchaser, lender or title insurance company relied upon the false statement or that any person was injured thereby."

SECTION 3. This act becomes effective October 1, 2009.



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