

Senate Bill 143

By: Senators Tippins of the 37th, Dugan of the 30th, Gooch of the 51st, Miller of the 49th and Kennedy of the 18th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia
2 Annotated, relating to mechanics and materialmen, so as to conform a reference within a
3 statutory form regarding waiver of lien and labor or material bond rights; to provide for
4 related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
8 relating to mechanics and materialmen, is amended by revising paragraph (2) of subsection
9 (g) of Code Section 44-14-366, relating to waiver of lien or claim upon bond in advance of
10 furnishing labor, services, or materials void, interim waiver and release upon payment,
11 unconditional waiver and release upon final payment, and affidavit of nonpayment, as
12 follows:

13 "(2) Such lien and labor or material bond waivers and releases shall conclusively be
14 deemed effective upon the earliest to occur of:

15 (A) Actual receipt of funds in the amount set forth in the waiver and release;

16 (B) Execution by the claimant of a separate written acknowledgment of payment in
17 full; or

18 (C) Ninety days after the date of the execution of the waiver and release, unless prior
19 to the expiration of said 90 day period the claimant files in the county in which the
20 property is located an affidavit of nonpayment, using substantially the language in the
21 following form, where such language shall be in at least 12 point font and need not be
22 in boldface capital letters:

23 **'AFFIDAVIT OF NONPAYMENT UNDER**
24 **O.C.G.A. 44-14-366**

25 **STATE OF GEORGIA**
26 **COUNTY OF _____**

27 **THE UNDERSIGNED MECHANIC AND/OR MATERIALMAN HAS BEEN**
28 **EMPLOYED BY _____ (NAME OF**
29 **CONTRACTOR) TO FURNISH _____ (DESCRIBE**
30 **MATERIALS AND/OR LABOR) FOR THE CONSTRUCTION OF**
31 **IMPROVEMENTS KNOWN AS _____ (TITLE OF THE**
32 **PROJECT OR BUILDING) WHICH IS LOCATED IN THE CITY OF**
33 **_____, COUNTY OF _____, AND IS OWNED BY**
34 **_____ (NAME OF OWNER) AND MORE**
35 **PARTICULARLY DESCRIBED AS FOLLOWS:**

36 _____
37 _____
38 _____

39 (DESCRIBE THE PROPERTY UPON WHICH THE IMPROVEMENTS
 40 WERE MADE BY USING EITHER A METES AND BOUNDS
 41 DESCRIPTION, THE LAND LOT DISTRICT, BLOCK AND LOT
 42 NUMBER, OR STREET ADDRESS OF THE PROJECT.)

43 PURSUANT TO O.C.G.A. 44-14-366 THE UNDERSIGNED EXECUTED A
 44 LIEN WAIVER AND RELEASE WITH RESPECT TO THIS PROPERTY
 45 DATED _____, _____. THE AMOUNT SET FORTH IN SAID
 46 WAIVER AND RELEASE (\$_____) HAS NOT BEEN PAID IN FULL AND
 47 \$_____ OF THE AMOUNT SET FORTH IN SAID WAIVER
 48 AND RELEASE REMAINS UNPAID, AND THE UNDERSIGNED HEREBY
 49 GIVES NOTICE OF SUCH NONPAYMENT.

50 THE ABOVE FACTS ARE SWORN TRUE AND CORRECT BY THE
 51 UNDERSIGNED, THIS _____ DAY OF _____, _____.

52 _____(SEAL)

53 CLAIMANT'S SIGNATURE

54

55 SWORN TO AND EXECUTED

56 IN THE PRESENCE OF:

57 _____

58 WITNESS

59 _____

60 NOTARY PUBLIC

61 WITHIN SEVEN DAYS OF FILING THIS AFFIDAVIT OF NONPAYMENT, THE
62 FILING PARTY SHALL SEND A COPY OF THE AFFIDAVIT BY REGISTERED
63 OR CERTIFIED MAIL OR STATUTORY OVERNIGHT DELIVERY TO THE
64 OWNER OF THE PROPERTY. IF THE FILING PARTY IS NOT IN PRIVITY OF
65 CONTRACT WITH THE PROPERTY OWNER AND A NOTICE OF
66 COMMENCEMENT IS FILED FOR THE IMPROVEMENT ON THE PROPERTY
67 FOR WHICH THE FILING PARTY'S LABOR, SERVICES, OR MATERIALS
68 WERE FURNISHED, A COPY OF THE AFFIDAVIT SHALL BE SENT TO THE
69 CONTRACTOR AT THE ADDRESS SHOWN ON THE NOTICE OF
70 COMMENCEMENT. WHENEVER THE OWNER OF THE PROPERTY IS AN
71 ENTITY ON FILE WITH THE SECRETARY OF STATE'S CORPORATIONS
72 DIVISION, SENDING A COPY OF THE ~~LIEN~~ AFFIDAVIT TO THE COMPANY'S
73 ADDRESS OR THE REGISTERED AGENT'S ADDRESS ON FILE WITH THE
74 SECRETARY OF STATE SHALL BE DEEMED SUFFICIENT."

75

SECTION 2.

76 All laws and parts of laws in conflict with this Act are repealed.