§ 44A-11.2. Identification of lien agent; notice to lien agent; effect of notice.

(a) As used in this section, the term "contact information" means the name, physical and mailing address, telephone number, facsimile number, and email address of the lien agent designated by the owner pursuant to G.S. 44A-11.1.

(b) Within seven days of receiving a written request by a potential lien claimant by any delivery method specified in subsection (f) of this section, the owner shall provide a notice to the potential lien claimant containing the contact information for the lien agent, by the same delivery method used by the potential lien claimant in making the request.

(b1) A potential lien claimant making a request pursuant to subsection (b) of this section who did not receive the lien agent contact information pursuant to subsection (c) of this section, and who has not furnished labor, materials, rental equipment, or professional design or surveying services at the site of the improvements, or who last furnished labor, materials, rental equipment, or professional design or surveying services at the site of the improvements prior to the posting of the contact information for the lien agent pursuant to subsection (d) or (e) of this section, has no obligation to give notice to the lien agent under this section until the potential lien claimant has received the contact information from the owner.

(c) A contractor or subcontractor for improvements to real property subject to G.S. 44A-11.1 shall, within three business days of contracting with a lower-tier subcontractor who is not required to furnish labor, materials, rental equipment, or professional design or surveying services at the site of the improvements, provide the lower-tier subcontractor with a written notice containing the contact information for the lien agent designated by the owner. This notice shall be given pursuant to subsection (f) of this section or may be given by including the lien agent contact information in a written subcontract entered into by, or a written purchase order issued to, the lower-tier subcontractor entitled to the notice required by this subsection. Any contractor or subcontractor who has previously received notice of the lien agent contact information, whether from the building permit, the inspections office, a notice from the owner, contractor, or subcontractor, or by any other means, and who fails to provide the lien agent contact information to the lower-tier subcontractor in the time required under this subsection, is liable to the lower-tier subcontractor for any actual damages incurred by the lower-tier subcontractor as a result of the failure to give notice.

(d) For any improvement to real property subject to G.S. 44A-11.1, any building permit issued pursuant to G.S. 160D-1110(g) shall be conspicuously and continuously posted on the property for which the permit is issued until the completion of all construction.

(e) For any improvement to real property subject to G.S. 44A-11.1, a sign disclosing the contact information for the lien agent shall be conspicuously and continuously posted on the property until the completion of all construction if the contact information for the lien agent is not contained in a building permit or attachment thereto posted on the property.

(f) In complying with any requirement for written notice pursuant to this section, the notice shall be addressed to the person required to be provided with the notice and shall be delivered by any of the following methods:

(1) Certified mail, return receipt requested.
(2) Signature confirmation as provided by the United States Postal Service.
(3) Physical delivery and obtaining a delivery receipt from the lien agent.
(4) Facsimile with a facsimile confirmation.
(5) Depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2).
(6) Email, with delivery receipt.
(7) Utilizing a website approved for such use by the designated lien agent to transmit to the designated lien agent, with delivery receipt, all information

required to notify the lien agent of its designation pursuant to G.S. 44A-11.1 or to provide a notice to the designated lien agent pursuant to this section.

As used in this subsection, "delivery receipt" includes an electronic or facsimile confirmation. A return receipt or other receipt showing delivery of the notice to the addressee or written evidence that the notice was delivered by the postal service or other carrier to but not accepted by the addressee is prima facie evidence of receipt.

(g) For purposes of this subsection, "custom contractor" means a contractor duly licensed as a general contractor pursuant to Article 1 of Chapter 87 of the General Statutes who has contracted with an owner who is not an affiliate, relative, or insider of the contractor to build a single-family residence on the owner's property to be occupied by the owner as a residence. A custom contractor shall be deemed to have met the requirement of notice under subsections (*l*) and (m) of this section on the date of the lien agent's receipt of notice of its designation as lien agent delivered to it by the custom contractor in accordance with this section if, at the time of the lien agent's receipt of the notice, all of the following conditions are met:

(1) The owner has not previously designated a lien agent for the improvements to which the notice of designation of lien agent relates.

(2) The custom contractor is authorized to designate the lien agent on behalf of the owner under the written contract between the owner and custom contractor.

(3) In addition to the information required to be included pursuant to G.S. 44A-11.1(a), the notice of designation of lien agent contains the following information:

a. The custom contractor's name, mailing address, telephone number, fax number (if available), and email address (if available).

b. The name of the owner with whom the custom contractor has contracted to improve the real property identified in the notice.

After receiving a notice of its designation from a custom contractor pursuant to this subsection, the designated lien agent shall include the custom contractor's name and contact information in responding to any request for information pursuant to G.S. 58-26-45(b)(7).

(h) When a lien agent is not identified in a contract for improvements to real property subject to G.S. 44A-11.1 entered into between an owner and a design professional, the design professional shall be deemed to have met the requirement of notice under subsections (*l*) and (m) of this section on the date of the lien agent's receipt of the owner's designation of the lien agent. The owner shall provide written notice to the lien agent containing the information pertaining to the design professional required in a notice to lien agent pursuant to subdivisions (1) through (3) of subsection (i) of this section, by any method of delivery authorized in subsection (f) of this section. The lien agent shall include the design professional's name and address in its response to any persons requesting information relating to persons who have given notice to the lien agent pursuant to this section. For purposes of this subsection, the term "design professional" means any architects, engineers, land surveyors, and landscape architects registered under Chapter 83A, 89A, or 89C of the General Statutes.

(i) The form of the notice to be given under this section shall be legible, shall include the following information unless designated as "if available," and shall be substantially as follows:

NOTICE TO LIEN AGENT

(1) Potential lien claimant's name, mailing address, telephone number, fax number (if available), and email address (if available):

(2) Name of the party with whom the potential lien claimant has contracted to improve the real property described below:

(3) A description of the real property sufficient to identify the real property, such as the name of the project, if applicable, the physical address as shown on the building permit or notice received from the owner:

(4) I give notice of my right subsequently to pursue a claim of lien for improvements to the real property described in this notice.

Dated: _____

_____

Potential Lien Claimant

(j) The service of the Notice to Lien Agent does not satisfy the service or filing requirements applicable to a Notice of Subcontract under Part 2 of Article 2 of this Chapter, a Notice of Claim of Lien upon Funds under Part 2 of Article 2 of this Chapter, or a Claim of Lien on Real Property under Part 1 or Part 2 of Article 2 of this Chapter. A Notice to Lien Agent shall not be combined with or make reference to a Notice of Subcontract or Notice of Claim of Lien upon Funds as described in this subsection.

(k) The notice to lien agent shall not be filed with the clerk of superior court. An inaccuracy in the description of the improved real property provided in the notice does not bar a person from claiming a lien under this Article or otherwise perfecting or enforcing a claim of lien as provided in this Article, if the improved real property can otherwise reasonably be identified from the information contained in the notice.

(*l*) Except as otherwise provided in this section, for any improvement to real property subject to G.S. 44A-11.1, a potential lien claimant may perfect a claim of lien on real property only if at least one of the following conditions is met:

(1) The lien agent identified in accordance with this section has received a Notice to Lien Agent from the potential lien claimant no later than 15 days after the first furnishing of labor or materials by the potential lien claimant.

(2) Any of the following conditions is met:

a. The lien agent identified in accordance with this section has received a Notice to Lien Agent from the potential lien claimant prior to the date of recordation of a conveyance of the property interest in the real property to a bona fide purchaser for value protected under G.S. 47-18 who is not an affiliate, relative, or insider of the owner.

b. The potential lien claimant has perfected its claim of lien on real property pursuant to G.S. 44A-11 prior to the recordation of a conveyance of the property interest in the real property to a bona fide purchaser for value protected under G.S. 47-18 who is not an affiliate, relative, or insider of the owner.

As used in this subdivision, the terms "affiliate," "relative," and "insider" have the meanings as set forth in G.S. 39-23.1.

(m) Except as otherwise provided in this section, for any improvement to real property subject to G.S. 44A-11.1, the claim of lien on real property of a potential lien claimant that is not perfected pursuant to G.S. 44A-11 prior to the recordation of any mortgage or deed of trust for the benefit of one who is not an affiliate, relative, or insider of the owner is subordinate to the previously recorded mortgage or deed of trust unless at least one of the following conditions is met:

(1) The lien agent identified in accordance with this section has received a Notice to Lien Agent from the potential lien claimant no later than 15 days after the first furnishing of labor or materials by the potential lien claimant.

(2) The lien agent identified in accordance with this section has received a Notice to Lien Agent from the potential lien claimant prior to the date of recordation of the mortgage or deed of trust.

(n) For any improvement to real property subject to G.S. 44A-11.1, a potential lien claimant is not required to comply with this section if the lien agent contact information is neither contained in the building permit or attachment thereto or sign posted on the improved property

pursuant to subsection (d) or (e) of this section at the time when the potential lien claimant was furnishing labor, materials, rental equipment, or professional design or surveying services at the site of the improvements, nor timely provided by the owner in response to a written request by the potential lien claimant made pursuant to subsection (b) of this section. The lien rights of a potential lien claimant who is given erroneous information by the owner regarding the identity of the lien agent are not extinguished under subsection (*l*) of this section nor subordinated under subsection (m) of this section.

(o) Except as provided in subsections (*l*) and (m) of this section, nothing contained in this section affects a claim of lien upon funds pursuant to G.S. 44A-18.

(p) A potential lien claimant may provide the notice to lien agent required under this section regardless of whether the improvements for which the potential lien claimant is responsible are contracted, started, in process, or completed at the time of submitting the notice.

(q) For any improvement to real property subject to G.S. 44A-11.1, a potential lien claimant may cancel a Notice to Lien Agent by utilizing the website approved for such use by the designated lien agent. For any improvement to real property subject to G.S. 44A-11.1 comprising one- or two-family dwellings, a potential lien claimant shall cancel a Notice to Lien Agent by utilizing the website approved for such use by the designated lien agent within a reasonable time after the potential lien claimant has confirmed its receipt of final payment for the improvement to which the Notice to Lien Agent relates.

(r) A Notice to Lien Agent not otherwise cancelled or renewed pursuant to this section expires and is discharged five years from its date of delivery to the lien agent.

(s) A Notice to Lien Agent may be renewed prior to its cancellation or automatic expiration for one five-year period by utilizing the website approved for such use by the designated lien agent. Such renewal shall extend the date of expiration by five years.

(t) If a Notice to Lien Agent is timely renewed prior to cancellation or expiration pursuant to this section, the renewal shall maintain and relate back to the original delivery date of the Notice to Lien Agent.

(u) Any protections provided to a potential lien claimant under this section as the result of its delivery of a Notice to Lien Agent shall terminate upon the cancellation or automatic expiration of that Notice to Lien Agent pursuant to this section and shall not thereafter be revived or renewed by subsequent delivery of a Notice to Lien Agent by that potential lien claimant.

(v) Cancellation or expiration of a Notice to Lien Agent pursuant to this section has no effect upon the validity of a previously filed claim of lien or upon the priority of lien rights. (2012-158, s. 2; 2013-16, s. 2; 2013-117, s. 2; 2014-115, s. 35(b); 2017-168, s. 2; 2018-142, s. 8(a); 2022-62, s. 5; 2025-25, s. 29(1), (5).)