

§ 44A-18. Grant of lien upon funds; subrogation; perfection.

(a) A first tier subcontractor who furnished labor, materials, or rental equipment at the site of the improvement shall have a lien upon funds that are owed to the contractor with whom the first tier subcontractor dealt and that arise out of the improvement on which the first tier subcontractor worked or furnished materials.

(b) A second tier subcontractor who furnished labor, materials, or rental equipment at the site of the improvement shall have a lien upon funds that are owed to the first tier subcontractor with whom the second tier subcontractor dealt and that arise out of the improvement on which the second tier subcontractor worked or furnished materials. A second tier subcontractor, to the extent of the second tier subcontractor's lien provided in this subdivision, shall also be subrogated to the lien upon funds of the first tier subcontractor with whom the second tier contractor dealt provided for in subdivision (1) of this section and shall perfect it by service of the notice of claim of lien upon funds to the extent of the claim.

(c) A third tier subcontractor who furnished labor, materials, or rental equipment at the site of the improvement shall have a lien upon funds that are owed to the second tier subcontractor with whom the third tier subcontractor dealt and that arise out of the improvement on which the third tier subcontractor worked or furnished materials. A third tier subcontractor, to the extent of the third tier subcontractor's lien upon funds provided in this subdivision, shall also be subrogated to the lien upon funds of the second tier subcontractor with whom the third tier contractor dealt and to the lien upon funds of the first tier subcontractor with whom the second tier subcontractor dealt to the extent that the second tier subcontractor is subrogated thereto, and in either case shall perfect it by service of the notice of claim of lien upon funds to the extent of the claim.

(d) Subcontractors more remote than the third tier who furnished labor, materials, or rental equipment at the site of the improvement shall have a lien upon funds that are owed to the person with whom they dealt and that arise out of the improvement on which they furnished labor, materials, or rental equipment, but such remote tier subcontractor shall not be entitled to subrogation to the rights of other persons.

(e) The liens upon funds granted under this section shall secure amounts earned by the lien claimant as a result of having furnished labor, materials, or rental equipment at the site of the improvement under the contract to improve real property, including interest at the legal rate provided in G.S. 24-5, whether or not such amounts are due and whether or not performance or delivery is complete. In the event insufficient funds are retained to satisfy all lien claimants, subcontractor lien claimants may recover the interest due under this subdivision on a pro rata basis, but in no event shall interest due under this subdivision increase the liability of the obligor under G.S. 44A-20.

(f) A lien upon funds granted under this section arises, attaches, and is effective immediately upon the first furnishing of labor, materials, or rental equipment at the site of the improvement by a subcontractor. Any lien upon funds granted under this section is perfected upon the giving of notice of claim of lien upon funds in writing to the obligor as provided in G.S. 44A-19.

(g) Until a lien claimant gives notice of a claim of lien upon funds in writing to the obligor as provided in G.S. 44A-19, any owner, contractor, or subcontractor against whose interest the lien upon funds is claimed may make, receive, use, or collect payments thereon and may use such proceeds in the ordinary course of its business. (1971, c. 880, s. 1; 1985, c. 702, s. 3; 1995 (Reg. Sess., 1996), c. 607, s. 3; 2005-229, s. 1; 2012-175, s. 6.)