§ 44A-27. Actions on payment bonds; service of notice.

(a) Subject to the provision of subsection (b) hereof, any claimant who has performed labor or furnished materials in the prosecution of the work required by any contract for which a payment bond has been given pursuant to the provisions of this Article, and who has not been paid in full therefor before the expiration of 90 days after the day on which the claimant performed the last such labor or furnished the last such materials for which he claims payment, may bring an action on such payment bond in his own name, to recover any amount due him for such labor or materials and may prosecute such action to final judgment and have execution on the judgment.

(b) Any claimant who has a direct contractual relationship with any subcontractor but has no contractual relationship, express or implied, with the contractor may bring an action on the payment bond only if he has given written notice of claim on payment bond to the contractor within 120 days from the date on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. The contractor shall, in response to a written request served by any claimant in accordance with the provisions of subsection (c) of this section, send a copy of the payment bond required by this Article to the claimant making the request within seven calendar days after receipt of such request. Subject to the exception set forth in subsection (e) of this section, unless the contractor has failed to satisfy its obligation to timely furnish a copy of the payment bond to a claimant upon proper request by the claimant, the claim of such a claimant shall not include labor or materials provided more than 75 days prior to the claimant's service, in accordance with subsections (c) and (d) of this section, of its written notice of public subcontract to the contractor.

(c) The notices required by and any requests for copy of payment bond referenced by subsection (b) of this section, shall be served by certified mail, or by signature confirmation as provided by the United States Postal Service, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business or to such agent identified in the contractor's project statement referenced in subdivision (1) of subsection (f) of this section or served in any manner provided by law for the service of summons.

(d) The form of the notice of public subcontract to be served pursuant to subsection (b) of this section shall be substantially as follows:

"NOTICE OF PUBLIC SUBCONTRACT

(1) Name and address of the subcontractor giving notice of public subcontract:

(2) General description of the real property on which the labor was or is to be performed or the material was or is to be furnished (street address, tax map lot and block number, reference to recorded instrument, or any description that reasonably identifies the real property):

(3) General description of the subcontractor's contract, including the names and addresses of the parties thereto:

(4) General description of the labor and material performed and furnished thereunder:

Dated: _____

_____

Subcontractor"

(e) Notwithstanding subsections (b), (c), and (d) of this section, the obligation to provide a notice of public subcontract shall not apply to claims of twenty thousand dollars

($20,000) or less and, for any claim exceeding twenty thousand dollars ($20,000), shall apply only to that portion of the claim in excess of twenty thousand dollars ($20,000).

(f) In connection with any construction contract for which a bond is required by G.S. 44A-26(a), all of the following shall apply:

(1) The contractor shall provide to each subcontractor that it engages to perform labor or furnish materials in the performance of the construction contract a contractor's project statement containing all of the following information:
   a. The name of the project.
   b. The physical address of the project.
   c. The name of the contracting body.
   d. The name of the contractor.
   e. The name, phone number, and mailing address of an agent authorized by the contractor to accept service of the requests for payment bond, the notice of public subcontract, and the notice of claim on payment bond referenced in subsection (b) of this section.
   f. The name and address of the principal place of business of the surety issuing the payment bond required by G.S. 44A-26(a) for the construction contract.

(2) Each subcontractor shall provide each subcontractor that it engages to perform labor or furnish materials in the performance of the construction contract a copy of the contractor's project statement.

(3) No agreement entered into between a contractor and a subcontractor or between a subcontractor and its subcontractor shall be enforceable against the lower tier party until the contractor's project statement has been provided to the lower tier party. (1973, c. 1194, s. 1; 1987, c. 569; 2001-177, s. 1; 2001-487, s. 100; 2012-175, s. 11; 2013-16, s. 6.)