



# HOUSE BILL 1101: Mech.Liens/Amend Info./Child Supp. Orders.

2013-2014 General Assembly

**Committee:** Senate Judiciary I  
**Introduced by:** Reps. Stevens, Arp  
**Analysis of:** PCS to Second Edition  
H1101-CSTG-85

**Date:** June 25, 2014  
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**SUMMARY:** *The PCS to House Bill 1101 would prohibit the use of contractual arrangements in public projects for the purpose of evading the bond requirements of Article 3 of Chapter 44A. The PCS adds provisions to require that the address of the custodial parent or child be included in a child support order except under certain circumstances.*<sup>1</sup>

**CURRENT LAW (relating to Section 1 of the PCS):** Under current law, a contractor who contracts only with the lessee of real property to supply labor or materials to improve the leased real property may not enforce a lien against the landowner's fee simple interest without proving, by the greater weight of the evidence, that the lessee was acting as agent for the landowner in ordering the improvements.

There is no statutory provision expressly prohibiting a public contracting body from entering into an agreement that would effectively exempt a public construction project from the bond requirements of Article 3 of Chapter 44A, or providing that contractors making improvements to leased public property pursuant to a contract with the lessee must provide payment and performance bonds in accordance with Article 3 of Chapter 44A.

**CURRENT LAW (relating to Sections 2-6 of the PCS):** A non-IV-D child support order that contains an income withholding requirement and a IV-D child support order must have a provision that requires the custodial party to keep the obligor informed of the child's address.<sup>2</sup> There is no requirement if the court has determined that notice to the obligor is inappropriate because the obligor has made verbal or physical threats that constitute domestic violence under Chapter 50B, North Carolina General Statutes.

**BILL ANALYSIS:** **Section 1** of the PCS adds three new subsections to G.S. 44A-26 (payment and performance bond requirements for public construction projects) intended to prevent the use of contractual arrangements to evade Article 3's bond requirements:

- New subsection (c) makes lease or contract provisions that exempt projects from this section's bond requirements void as against public policy.
- New subsection (d) is designed to prevent a public contracting body from evading bond requirements by leasing the property to a lessee and requiring the lessee to contract with the contractors, instead of the public body contracting directly with the contractors itself. If the bond requirements would have applied to a direct contracting arrangement, then the lessee required to carry out that responsibility must also require bonds from the contractors. Improvements constructed on land owned by a contracting body are deemed to be public improvements (added by PCS).

<sup>1</sup> Sections 2 – 6 of the PCS are identical to Sections 1 – 5 of [House Bill 189](#) (3d edition).

<sup>2</sup> "IV-D" refers to Title IV-D of the Social Security Act, which requires each state to create a local Office of Child Support Enforcement. A "IV-D case" is a child-support proceeding in which the custodial parent is receiving some sort of assistance from the Office of Child Support Enforcement.



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- New subsection (e) provides that new subsections (c) and (d) do not apply to a project subject to the public-private partnership requirements of G.S. 143-128.1C.

**Section 2** of the PCS would require that the custodial parent's address is in the non-IV-D child support order that contains an income withholding requirement and a IV-D child support order. If the custodial parent and the child are at different addresses, the child's address is to be in the order. The order would not have to contain the address if (i) there is an existing order prohibiting disclosure of the custodial parent's or child's address to the obligor or (ii) the court has determined that notice to the obligor is inappropriate because the obligor has made verbal or physical threats that constitute domestic violence under Chapter 50B, North Carolina General Statutes.

**Sections 3 – 6** of the PCS make technical amendments to the Uniform Deployed Parents Custody and Visitation Act.

**EFFECTIVE DATE:** Section 1 of the act would be effective on October 1, 2014 and would apply to leases or other contracts entered into on or after that date. Section 2 of the act would become effective January 1, 2015, and would apply to orders entered on or after that date. The remainder of this act would be effective when it becomes law.

*Hal Pell, counsel to Senate Judiciary II, substantially contributed to this summary.*