

Effective: April 29, 2014

Ga. Code Ann., § 44-14-361.5

§ 44-14-361.5. Notice to contractor; Notice of Commencement

Currentness

(a) To make good the liens specified in paragraphs (1), (2), and (6) through (9) of subsection (a) of [Code Section 44-14-361](#), any person having a right to a lien who does not have privity of contract with the contractor and is providing labor, services, or materials for the improvement of property shall, within 30 days from the filing of the notice of commencement or 30 days following the first delivery of labor, services, or materials to the property, whichever is later, give a written notice to contractor as set out in subsection (c) of this Code section to the owner or the agent of the owner and to the contractor for a project on which there has been filed with the clerk of the superior court a notice of commencement setting forth therein the information required in subsection (b) of this Code section.

(b) Not later than 15 days after the contractor physically commences work on the property, a notice of commencement shall be filed by the owner, the agent of the owner, or by the contractor with the clerk of the superior court in the county in which the project is located. A copy of the notice of commencement shall be posted on the project site. The notice of commencement shall include:

- (1) The name, address, and telephone number of the contractor;
- (2) The name and location of the project being constructed and the legal description of the property upon which the improvements are being made;
- (3) The name and address of the true owner of the property;
- (4) The name and address of the person other than the owner at whose instance the improvements are being made, if not the true owner of the property;
- (5) The name and the address of the surety for the performance and payment bonds, if any; and
- (6) The name and address of the construction lender, if any.

The contractor shall be required to give a copy of the notice of commencement to any subcontractor, materialman, or person who makes a written request of the contractor. Failure to give a copy of the notice of commencement within ten calendar days of receipt of the written request from the subcontractor, materialman, or person shall render the provision of this Code section inapplicable to the subcontractor, materialman, or person making the request.

(c) A notice to contractor shall be sent by registered or certified mail or statutory overnight delivery to the owner or the agent of the owner and to the contractor at the addresses set forth in the notice of commencement setting forth:

- (1) The name, address, and telephone number of the person providing labor, services, or materials;
- (2) The name and address of each person at whose instance the labor, services, or materials are being furnished;
- (3) The name of the project and location of the project set forth in the notice of commencement; and

(4) A description of the labor, services, or materials being provided and, if known, the contract price or anticipated value of the labor, services, or materials to be provided or the amount claimed to be due, if any.

(d) The failure to file a notice of commencement shall render the provisions of this Code section inapplicable. The filing of a notice of commencement shall not constitute a cloud, lien, or encumbrance upon or defect to the title of the real property described in the notice of commencement, nor shall it alter the aggregate amounts of liens allowable, nor shall it affect the priority of any loan in which the property is to secure payment of the loan filed before or after the notice of commencement, nor shall it affect the future advances under any such loan. Nothing contained in this Code section shall affect the provisions of [Code Section 44-14-361.2](#).

(e) The clerk of each superior court shall file the notice of commencement within the records of that office and maintain an index separate from other real estate records or an index with the preliminary notices specified in subsection (a) of [Code Section 44-14-361.3](#). Each such notice of commencement shall be indexed under the name of the true owner and the contractor as contained in the notice of commencement.

Credits

Laws 1993, p. 1008, § 1; Laws 1995, p. 672, § 1; [Laws 2008, Act 766, § 3, eff. March 31, 2009](#); [Laws 2013, Act 33, § 44, eff. April 24, 2013](#); [Laws 2014, Act 669, § 44, eff. April 29, 2014](#).