

Senate Bill 363

By: Senators Tippins of the 37th, Mullis of the 53rd, Miller of the 49th, Bethel of the 54th, Chance of the 16th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 10 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia
2 Annotated, relating to miscellaneous liens, so as to create a contractor's cause of action for
3 unpaid work; to provide for related matters; to provide for an effective date; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Part 10 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
8 relating to miscellaneous liens, is amended by adding a new Code section to read as follows:
9 "44-14-519.

10 (a) As used in this Code section, the term:

11 (1) 'Bank or lending institution' means a business providing loans for funding acquisition
12 and development of property for residential, commercial, or industrial use.

13 (2) 'Contracted services' means all construction disciplines necessary for improvement
14 and development of property from raw land to construction ready building sites,
15 including but not limited to:

16 (A) Clearing and grubbing;

17 (B) Grading;

18 (C) Sanitary sewer and services;

19 (D) Storm sewer;

20 (E) Water lines and services;

21 (F) Curb and gutter;

22 (G) Paving; and

23 (H) Erosion control and grassing.

24 (3) 'Contractor' means the party providing systems or services necessary for development
25 and improvement of land for a higher residential, commercial, or industrial use.

26 (4) 'Property owner' or 'real estate developer' means the person or business entity
27 contracting for systems or services necessary for development and improvement of land
28 for a higher residential, commercial, or industrial use.

29 (b) Whenever a property owner or real estate developer borrows funds from a bank or
30 lending institution for any contracted services for development of land, there shall be a
31 schedule of disbursements prepared showing total funds set aside for each facet of
32 contracted services.

33 (c) After the property owner or real estate developer and the contractor have reached a
34 mutual agreement and entered into a contract for the pricing of any or all of the contracted
35 services, the contractor shall have the right to obtain from the bank or lending institution,
36 prior to commencing work, a copy of the schedule of disbursements and a written
37 verification of the funds allocated for each facet of the contracted services.

38 (d) The bank or lending institution shall follow the schedule of disbursements and disburse
39 the appropriate funds to the property owner or real estate developer upon receiving from
40 the property owner, real estate developer, or contractor verification of the satisfactory
41 completion of work by the contractor.

42 (e) The property owner or real estate developer shall disburse the funds, either in whole
43 or partial payment draws as stated in the contract between the property owner or real estate
44 developer, to the contractor within seven days of receipt of the funds from the bank or
45 lending institution.

46 (f) The bank or lending institution shall not be held responsible for payment of funds to
47 the contractor as long as the bank or lending institution has disbursed said funds to the
48 property owner or real estate developer in accordance with the terms of the schedule of
49 disbursements.

50 (g) If the property owner or real estate developer fails to pay the contractor after receiving
51 verification of the satisfactory substantial completion of work by the contractor, the
52 property owner or real estate developer shall be held responsible to the unpaid contractor
53 to the fullest extent of any and all available legal remedies."

54 **SECTION 2.**

55 This Act shall become effective on July 1, 2014.

56 **SECTION 3.**

57 All laws and parts of laws in conflict with this Act are repealed.