



156912

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2011	.	
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	.	

The Committee on Regulated Industries (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 713.10, Florida Statutes, is amended to
read:

713.10 Extent of liens.—

(1) Except as provided in s. 713.12, a lien under this part shall extend to, and only to, the right, title, and interest of the person who contracts for the improvement as such right, title, and interest exists at the commencement of the improvement or is thereafter acquired in the real property. When



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13 an improvement is made by a lessee in accordance with an
14 agreement between such lessee and her or his lessor, the lien
15 shall extend also to the interest of such lessor.

16 (2) (a) When the lease expressly provides that the interest
17 of the lessor shall not be subject to liens for improvements
18 made by the lessee, the lessee shall notify the contractor
19 making any such improvements of such provision or provisions in
20 the lease, and the knowing or willful failure of the lessee to
21 provide such notice to the contractor shall render the contract
22 between the lessee and the contractor voidable at the option of
23 the contractor.

24 (b) The interest of the lessor shall not be subject to
25 liens for improvements made by the lessee when:

26 1. The lease, or a short form or a memorandum of the lease
27 that contains the specific language in the lease prohibiting
28 such liability, is recorded in the official records of the
29 county where the premises are located before the recording of a
30 notice of commencement for improvements to the premises

31 ~~(1) The lease or a short form thereof is recorded in the~~
32 ~~clerk's office and the terms of the lease expressly prohibit~~
33 ~~such liability; or~~

34 2. (2) The terms All of the lease expressly prohibit such
35 liability and a notice advising that leases entered into by a
36 lessor for the rental of premises on a parcel of land prohibit
37 such liability and a notice which sets forth the following is
38 has been recorded by the lessor in the official public records
39 of the county in which the parcel of land is located before the
40 recording of a notice of commencement for improvements to the
41 premises and the notice includes the following:



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42 a.~~(a)~~ The name of the lessor.
43 b.~~(b)~~ The legal description of the parcel of land to which
44 the notice applies.
45 c.~~(c)~~ The specific language contained in the various leases
46 prohibiting such liability.
47 d.~~(d)~~ A statement that all or a majority of the leases
48 entered into for premises on the parcel of land expressly
49 prohibit such liability ~~contain the language identified in~~
50 ~~paragraph (c).~~
51 ~~(3) The lessee is a mobile home owner who is leasing a~~
52 ~~mobile home lot in a mobile home park from the lessor.~~
53 (3) Any contractor or lienor under contract to furnish
54 labor, services, or materials for improvements being made by a
55 lessee may serve written demand on the lessor for a copy of the
56 provision in the lease prohibiting liability for improvements
57 made by the lessee, which copy shall be verified under s.
58 92.525. The demand must identify the lessee and the premises
59 being improved and must be in a document that is separate from
60 the notice to the owner as provided in s. 713.06(2). The
61 interest of any lessor who does not serve a verified copy of the
62 lease provision within 30 days after demand, or who serves a
63 false or fraudulent copy, is subject to a lien under this part
64 by the contractor or lienor who made the demand if the
65 contractor or lienor is otherwise entitled to a lien under this
66 part and did not have actual notice that the interest of the
67 lessor was not subject to a lien for improvements made by the
68 lessee. The written demand must include a warning in conspicuous
69 type in substantially the following form:

WARNING



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71 YOUR FAILURE TO SERVE THE REQUESTED VERIFIED COPY WITHIN 30
72 DAYS OR THE SERVICE OF A FALSE COPY MAY RESULT IN YOUR PROPERTY
73 BEING SUBJECT TO THE CLAIM OF LIEN OF THE PERSON REQUESTING THE
74 VERIFIED COPY.

75 Section 2. Paragraphs (a) and (d) of subsection (1) of
76 section 713.13, Florida Statutes, are amended to read:

77 713.13 Notice of commencement.—

78 (1) (a) Except for an improvement that is exempt pursuant to
79 s. 713.02(5), an owner or the owner's authorized agent before
80 actually commencing to improve any real property, or
81 recommencing completion of any improvement after default or
82 abandonment, whether or not a project has a payment bond
83 complying with s. 713.23, shall record a notice of commencement
84 in the clerk's office and forthwith post either a certified copy
85 thereof or a notarized statement that the notice of commencement
86 has been filed for recording along with a copy thereof. The
87 notice of commencement shall contain the following information:

88 1. A description sufficient for identification of the real
89 property to be improved. The description should include the
90 legal description of the property and also should include the
91 street address and tax folio number of the property if available
92 or, if there is no street address available, such additional
93 information as will describe the physical location of the real
94 property to be improved.

95 2. A general description of the improvement.

96 3. The name and address of the owner, the owner's interest
97 in the site of the improvement, and the name and address of the
98 fee simple titleholder, if other than such owner. A lessee who
99 contracts for the improvements is an owner as defined under s.



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100 713.01(23) and must be listed as the owner.
101 4. The name and address of the contractor.
102 5. The name and address of the surety on the payment bond
103 under s. 713.23, if any, and the amount of such bond.
104 6. The name and address of any person making a loan for the
105 construction of the improvements.
106 7. The name and address within the state of a person other
107 than himself or herself who may be designated by the owner as
108 the person upon whom notices or other documents may be served
109 under this part; and service upon the person so designated
110 constitutes service upon the owner.
111 (d) A notice of commencement must be in substantially the
112 following form:
113
114 Permit No..... Tax Folio No.....
115 NOTICE OF COMMENCEMENT
116 State of....
117 County of....
118
119 The undersigned hereby gives notice that improvement will
120 be made to certain real property, and in accordance with Chapter
121 713, Florida Statutes, the following information is provided in
122 this Notice of Commencement.
123 1. Description of property: ...(legal description of the
124 property, and street address if available)....
125 2. General description of improvement:.....
126 3. Owner information (A contracting party who is a lessee
127 is an owner as defined under section 713.01(23), Florida
128 Statutes, and must be listed here as the owner):.....



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- 129 a. Name and address:.....
- 130 b. Interest in property:.....
- 131 c. Name and address of fee simple titleholder (if other
- 132 than Owner):.....
- 133 4.a. Contractor: ... (name and address)....
- 134 b. Contractor's phone number:.....
- 135 5. Surety
- 136 a. Name and address:.....
- 137 b. Phone number:.....
- 138 c. Amount of bond: \$.....
- 139 6.a. Lender: ... (name and address)....
- 140 b. Lender's phone number:.....
- 141 7.a. Persons within the State of Florida designated by
- 142 Owner upon whom notices or other documents may be served as
- 143 provided by Section 713.13(1)(a)7., Florida Statutes: ... (name
- 144 and address)....
- 145 b. Phone numbers of designated persons:.....
- 146 8.a. In addition to himself or herself, Owner designates
- 147 of to receive a copy of the Lienor's
- 148 Notice as provided in Section 713.13(1)(b), Florida Statutes.
- 149 b. Phone number of person or entity designated by
- 150 owner:.....
- 151 9. Expiration date of notice of commencement (the
- 152 expiration date is 1 year from the date of recording unless a
- 153 different date is specified).....

154
155 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE
156 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER
157 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA



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158 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS
159 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
160 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU
161 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN
162 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF
163 COMMENCEMENT.

164
165 ... (Signature of Owner or Owner's Authorized
166 Officer/Director/Partner/Manager/Lessee—a contracting party who
167 is a lessee meets the definition of owner under section
168 713.01(23), Florida Statutes, and should sign here as the
169 owner)...

170 ... (Signatory's Title/Office)...

171
172 The foregoing instrument was acknowledged before me this
173 day of, ... (year)...., by ... (name of person)... as
174 ... (type of authority, . . . e.g. officer, trustee, attorney in
175 fact)... for ... (name of party on behalf of whom instrument was
176 executed)....

177
178 ... (Signature of Notary Public - State of Florida)...

179 ... (Print, Type, or Stamp Commissioned Name of Notary
180 Public)...

181 Personally Known OR Produced Identification

182 Type of Identification Produced.....

183
184 Verification pursuant to Section 92.525, Florida Statutes.

185
186 Under penalties of perjury, I declare that I have read the



187 foregoing and that the facts stated in it are true to the best
188 of my knowledge and belief.

189
190 ... (Signature of Natural Person Signing Above) ...
191 Section 3. This act shall take effect October 1, 2011.

192
193

194 ===== T I T L E A M E N D M E N T =====

195 And the title is amended as follows:

196 Delete everything before the enacting clause
197 and insert:

198 A bill to be entitled
199 An act relating to construction liens; amending s.
200 713.10, F.S.; specifying that a lessor's interest in
201 property is not subject to a construction lien for
202 improvements made by a lessee if certain documents
203 containing specific information and meeting certain
204 criteria are recorded in the official records of the
205 county before the recording of a notice of
206 commencement; authorizing certain contractors and
207 lienors to demand that a lessor serve verified copies
208 of a lease prohibiting liability for improvements made
209 by a lessee; subjecting the interest of a lessor to a
210 specified lien for failing to serve such verified
211 copies or serving a false or fraudulent copy;
212 requiring that the demand include a specified warning;
213 amending s. 713.13, F.S.; revising the form for notice
214 of commencement to include information relating to the
215 obligations of a lessee who contracts for improvements



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to property providing an effective date.