

STORAGE NAME: h1403a.rpp

DATE: April 11, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Real Property & Probate
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1403

RELATING TO: Construction Liens

SPONSOR(S): Representative Tobin

STATUTE(S) AFFECTED: Section 713.01, Florida Statutes

COMPANION BILL(S): SB 1674

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

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I. SUMMARY:

HB 1403 allows a solid waste company to use a construction lien to recover losses from a defaulting builder.

The bill takes effect upon becoming a law.

The bill will have no fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Under existing law, a solid waste company does not have access to the construction lien law to recover losses incurred at a construction site as a result of a defaulting builder. Therefore, in the event of a default, a solid waste company must attempt to recover losses without the benefit of a construction lien. Generally, these losses include the lost use of the container for the period it has been at the site, and the cost of disposing of the container's contents upon its recovery.

B. EFFECT OF PROPOSED CHANGES:

HB 1435 will allow a solid waste company to secure a construction lien. It accomplishes this by including solid waste removal in the definitional subsections of section 713.01, Florida Statutes.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. The bill will permit solid waste removal companies to obtain a construction lien to recover their fees.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION RESEARCH:

Section 1

HB 1403 amends subsections (12), (13), (26), (27) of section 713.01, Florida Statutes. Subsection (12) is amended to include **providing for the collection of solid waste** within the definition of "improve." Subsection (13) is amended to include **solid waste removal** within the definition of "improvement." Subsections (26) and (27) are amended to include **persons who remove solid waste from real property** within the definition of "subcontractor" and "sub-subcontractor."

Section 2

HB 1403 becomes effective upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Unknown.

2. Direct Private Sector Benefits:

Under HB 1403, solid waste removal companies will be able to secure a construction lien for losses resulting from a defaulting builder.

3. Effects on Competition, Private Enterprise and Employment Markets:

Unknown.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

There is an amendment traveling with HB 1403 relating to molder's liens. The amendment provides definitions. It also sets forth ownership rights to molds. The amendment provides that in the absence of a contrary agreement, a customer has all right and title to any mold in the possession of a molder. The amendment provides that the titles of unclaimed molds are transferred to the molder after three years from the last prior use of the mold, provided the molder gives sufficient notice to the customer, and provided the customer does not respond to the notice.

In addition, the amendment entitles a molder to a lien on molds left with a molder by a customer. The lien is available for a balance due on manufacturing or fabrication work, and for the value of all material related to such work. Under the provisions of the amendment, this lien may be enforced only after a customer has been given sufficient notice of a the molder's intent to enforce the lien. Furthermore, the amendment requires a molder who sells a mold to satisfy a lien, to return any proceeds beyond the amount of the lien to the customer. In the event the customer cannot be located, proceeds in excess of the lien amount must be deposited in the General Revenue Fund.

VII. SIGNATURES:

COMMITTEE ON Real Property & Probate:

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