

1 A bill to be entitled
2 An act relating to liens; amending s. 713.01,
3 F.S.; redefining the terms "improve,"
4 "improvement," "subcontractor," and
5 "sub-subcontractor" to include reference to
6 solid-waste removal; creating s. 713.596, F.S.;
7 providing for molders' liens and rights;
8 providing definitions; providing for ownership
9 rights to molds; providing procedures;
10 providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsections (12), (13), (26), and (27) of
15 section 713.01, Florida Statutes, are amended to read:

16 713.01 Definitions.--As used in this part, the term:

17 (12) "Improve" means build, erect, place, make, alter,
18 remove, repair, or demolish any improvement over, upon,
19 connected with, or beneath the surface of real property, or
20 excavate any land, or furnish materials for any of these
21 purposes, or perform any labor or services upon the
22 improvements, including the furnishing of carpet or rugs or
23 appliances that are permanently affixed to the real property
24 and final construction cleanup to prepare a structure for
25 occupancy; or perform any labor or services or furnish any
26 materials in grading, seeding, sodding, or planting for
27 landscaping purposes, including the furnishing of trees,
28 shrubs, bushes, or plants that are planted on the real
29 property, or in equipping any improvement with fixtures or
30 permanent apparatus or provide any solid-waste collection or
31 disposal on the site of the improvement.

1 (13) "Improvement" means any building, structure,
2 construction, demolition, excavation, solid-waste removal,
3 landscaping, or any part thereof existing, built, erected,
4 placed, made, or done on land or other real property for its
5 permanent benefit.

6 (26) "Subcontractor" means a person other than a
7 materialman or laborer who enters into a contract with a
8 contractor for the performance of any part of such
9 contractor's contract, including the removal of solid waste
10 from the real property.

11 (27) "Sub-subcontractor" means a person other than a
12 materialman or laborer who enters into a contract with a
13 subcontractor for the performance of any part of such
14 subcontractor's contract, including the removal of solid waste
15 from the real property.

16 Section 2. Section 713.596, Florida Statutes, is
17 created to read:

18 713.596 Molder's liens.--

19 (1) DEFINITIONS.--As used in this section:

20 (a) "Customer" means any person who causes a molder to
21 fabricate, cast, or otherwise make a mold, or who provides a
22 molder with a mold to manufacture, assemble, cast, fabricate,
23 or otherwise make a product for a customer.

24 (b) "Mold" means a die, mold, form, or pattern.

25 (c) "Molder" means any person who fabricates, casts,
26 or otherwise makes or uses a mold for the purpose of
27 manufacturing, assembling, casting, fabricating, or otherwise
28 making a product for a customer. The term includes a tool or
29 die maker.

30 (d) "Within 3 years following the last prior use"
31 means within the 3-year period following the last prior use of

1 a die, mold, form, or pattern regardless of whether or not
2 that period ends before July 1, 1997.

3 (2) OWNERSHIP RIGHTS TO MOLDS.--

4 (a) In the absence of any agreement to the contrary
5 the customer has all rights and title to any mold in the
6 possession of a molder.

7 (b) If a customer does not claim possession of a mold
8 from a molder within 3 years after the last prior use all
9 rights and title to the mold are transferred by operation of
10 law as provided in this section to the molder for the purpose
11 of destroying or otherwise disposing of such mold.

12 (c) If a molder chooses to have all rights and title
13 to a mold transferred to the molder by operation of law, the
14 molder must send written notice by registered mail to the
15 chief executive office of the customer or, if the customer is
16 not a business entity, to the customer at the customer's last
17 known address. The notice must state that the molder intends
18 to terminate the customer's rights and title by having all
19 such rights and title transferred to the molder by operation
20 of law under this section. The notice must include a statement
21 of the customer's rights as set forth in paragraph (d).

22 (d)1. If a customer does not respond to the notice, in
23 person or by mail, to claim possession of the mold within 120
24 days after the date the notice was sent, or does not make
25 other contractual arrangements with the molder for storage of
26 the mold, all rights and title of the customer, except patents
27 and copyrights, are transferred by operation of law to the
28 molder. Thereafter, the molder may destroy or otherwise
29 dispose of the particular mold as the molder's own property
30 without any risk of liability to the customer.

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1 2. This paragraph does not affect any right of the
2 customer under federal patent or copyright law or federal law
3 relating to unfair competition.

4 (3) LIENS.--

5 (a) A molder has a lien on any mold belonging to a
6 customer in the molder's possession for the balance due the
7 molder from such customer for any manufacturing or fabrication
8 work and for the value of all material related to such work.
9 The molder may retain possession of the mold until the debts
10 are paid .

11 (b) Before enforcing such lien, a molder must notify
12 the customer in writing, whether delivered personally or sent
13 by registered mail to the last-known address of the customer.
14 The notice must state that the molder claims a lien for the
15 debts for manufacturing or fabrication work specified in the
16 notice that has been contracted or performed for the customer.
17 The notice must also include a demand for payment.

18 (c) If a molder has not been paid the amount due and
19 stated in the notice within 60 days after the notice has been
20 delivered, the molder may sell the mold at a public auction.

21 (4) SALE.--

22 (a) Before a molder may sell a mold the molder must
23 notify the customer by registered mail, return receipt
24 requested. The notice must include:

25 1. Notice of the molder's intention to sell the mold
26 30 days after the customer's receipt of the notice.

27 2. A description of the mold to be sold.

28 3. The time and place of the sale.

29 4. An itemized statement for the amount due.

30 (b) If there is not a return of the receipt of the
31 mailing or if the postal service returns the notice as being

1 nondeliverable, the molder must publish notice, at least 10
2 days before the date of sale, in a newspaper of general
3 circulation in the county of the customer's last known place
4 of business of the molder's intent to sell the mold. The
5 notice must include a description of the mold.

6 (c)1. If the proceeds of the sale exceed the amount of
7 the lien, the excess must be paid to any prior lienholder
8 known to the molder at the time of the sale and any remainder
9 to the customer, if the customer's address is known, or to the
10 state treasurer for deposit in the General Revenue Fund if the
11 customer's address is unknown to the molder at the time of the
12 sale.

13 2. A sale may not be made under this section if it
14 would be in violation of any right of a customer under federal
15 patent or copyright law.

16 Section 3. This act shall take effect upon becoming a
17 law.