

1                                   A bill to be entitled  
 2       An act relating to the Construction Lien Law; amending s.  
 3       713.13, F.S.; revising payment requirements relating to  
 4       notice of commencement; amending s. 713.135, F.S.;  
 5       revising certain notice of commencement and applicability  
 6       of lien requirements for certain authorities issuing  
 7       building permits; prohibiting private providers performing  
 8       inspection services from performing or approving certain  
 9       inspections under certain circumstances; increasing a  
 10      threshold amount for certain application requirement  
 11      exemptions; prohibiting issuing authorities from requiring  
 12      recordation of a notice of commencement for certain  
 13      purposes; authorizing fees for furnishing copies of  
 14      certain statements; authorizing authorities issuing  
 15      building permits to accept permit applications  
 16      electronically; requiring an electronic submission  
 17      statement on building permit applications; requiring  
 18      provision of Internet access; amending s. 713.35, F.S.;  
 19      revising provisions relating to the making or furnishing  
 20      of false statements on certain construction documents;  
 21      providing penalties; providing an effective date.

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

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 25           Section 1. Paragraph (c) of subsection (1) of section  
 26   713.13, Florida Statutes, is amended to read:

27           713.13 Notice of commencement.--  
 28           (1)

29 (c) If the contract between the owner and a contractor  
 30 named in the notice of commencement expresses a period of time  
 31 for completion for the construction of the improvement greater  
 32 than 1 year, the notice of commencement must state that it is  
 33 effective for a period of 1 year plus any additional period of  
 34 time. Any payments made by the owner prior to the recordation of  
 35 or after the expiration of the notice of commencement are  
 36 considered improper payments.

37 Section 2. Paragraphs (b) and (d) of subsection (1) and  
 38 subsections (4) and (6) of section 713.135, Florida Statutes,  
 39 are amended, and paragraph (e) is added to subsection (1) of  
 40 that section, to read:

41 713.135 Notice of commencement and applicability of  
 42 lien.--

43 (1) When any person applies for a building permit, the  
 44 authority issuing such permit shall:

45 (b) Provide the applicant and the owner of the real  
 46 property upon which improvements are to be constructed with a  
 47 printed statement stating that the right, title, and interest of  
 48 the person who has contracted for the improvement may be subject  
 49 to attachment under the Construction Lien Law. The Department of  
 50 Business and Professional Regulation shall furnish, for  
 51 distribution, the statement described in this paragraph, and the  
 52 statement must be a summary of the Construction Lien Law and  
 53 must include an explanation of the provisions of the  
 54 Construction Lien Law relating to the recording, and the posting  
 55 of copies, of notices of commencement and a statement  
 56 encouraging the owner to record a notice of commencement and

HB 1443

2006

57 | post a copy of the notice of commencement in accordance with s.  
58 | 713.13. The statement must also contain an explanation of the  
59 | owner's rights if a lienor fails to furnish the owner with a  
60 | notice as provided in s. 713.06(2) and an explanation of the  
61 | owner's rights as provided in s. 713.22. The authority that  
62 | issues the building permit must obtain from the Department of  
63 | Business and Professional Regulation the statement required by  
64 | this paragraph and must mail, deliver by electronic mail or  
65 | other electronic format or facsimile, or personally deliver that  
66 | statement to the owner or, in a case in which the owner is  
67 | required to personally appear to obtain the permit, provide that  
68 | statement to any owner making improvements to real property  
69 | consisting of a single or multiple family dwelling up to and  
70 | including four units. However, the failure by the authorities to  
71 | provide the summary does not subject the issuing authority to  
72 | liability.

73 | (d) Furnish to the applicant two or more copies of a form  
74 | of notice of commencement conforming with s. 713.13. If the  
75 | direct contract is greater than \$2,500, the applicant shall file  
76 | with the issuing authority prior to the first inspection either  
77 | a certified copy of the recorded notice of commencement or a  
78 | notarized statement that the notice of commencement has been  
79 | filed for recording, along with a copy thereof. In the absence  
80 | of the filing of a certified copy of the recorded notice of  
81 | commencement, the issuing authority or a private provider  
82 | performing inspection services may ~~shall~~ not perform or approve  
83 | subsequent inspections until the applicant files by mail,  
84 | facsimile, hand delivery, or any other means such certified copy

HB 1443

2006

85 with the issuing authority. The certified copy of the notice of  
86 commencement must contain the name and address of the owner, the  
87 name and address of the contractor, and the location or address  
88 of the property being improved. The issuing authority shall  
89 verify that the name and address of the owner, the name of the  
90 contractor, and the location or address of the property being  
91 improved which is contained in the certified copy of the notice  
92 of commencement is consistent with the information in the  
93 building permit application. The issuing authority shall provide  
94 the recording information on the certified copy of the recorded  
95 notice of commencement to any person upon request. This  
96 subsection does not require the recording of a notice of  
97 commencement prior to the issuance of a building permit. If a  
98 local government requires a separate permit or inspection for  
99 installation of temporary electrical service or other temporary  
100 utility service, land clearing, or other preliminary site work,  
101 such permits may be issued and such inspections may be conducted  
102 without providing the issuing authority with a certified copy of  
103 a recorded notice of commencement or a notarized statement  
104 regarding a recorded notice of commencement. This subsection  
105 does not apply to a direct contract to repair or replace an  
106 existing heating or air-conditioning system in an amount less  
107 than \$7,500 ~~\$5,000~~.

108 (e) Not require that a notice of commencement be recorded  
109 as a condition of the application for or processing or issuance  
110 of a building permit. However, this paragraph does not modify or  
111 wave the inspection requirements set forth in this subsection.

HB 1443

2006

112 (4) The several boards of county commissioners, municipal  
 113 councils, or other similar bodies may by ordinance or resolution  
 114 establish reasonable fees for furnishing copies of the forms and  
 115 the printed statement provided in paragraphs ~~paragraph~~ (1) (b)  
 116 and (d) in an amount not to exceed \$5 to be paid by the  
 117 applicant for each permit in addition to all other costs of the  
 118 permit; however, no forms or statement need be furnished,  
 119 mailed, or otherwise provided to, nor may such additional fee be  
 120 obtained from, applicants for permits in those cases in which  
 121 the owner of a legal or equitable interest (including that of  
 122 ownership of stock of a corporate landowner) of the real  
 123 property to be improved is engaged in the business of  
 124 construction of buildings for sale to others and intends to make  
 125 the improvements authorized by the permit on the property and  
 126 upon completion will offer the improved real property for sale.

127 (6) (a) In addition to any other information required by  
 128 the authority issuing the permit, the building permit  
 129 application must be in substantially the following form:

130  
 131 Tax Folio No. \_\_\_\_\_

132 BUILDING PERMIT APPLICATION

133  
 134 Owner's Name

135 Owner's Address

136 Fee Simple Titleholder's Name (If other than owner)

137 Fee Simple Titleholder's Address (If other than owner)

138 City

139 State \_\_\_\_\_ Zip \_\_\_\_\_

HB 1443

2006

140 Contractor's Name  
 141 Contractor's Address  
 142 City  
 143 State \_\_\_\_\_ Zip \_\_\_\_\_  
 144 Job Name  
 145 Job Address  
 146 City \_\_\_\_\_ County \_\_\_\_\_  
 147 Legal Description  
 148 Bonding Company  
 149 Bonding Company Address  
 150 City \_\_\_\_\_ State \_\_\_\_\_  
 151 Architect/Engineer's Name  
 152 Architect/Engineer's Address  
 153 Mortgage Lender's Name  
 154 Mortgage Lender's Address

155  
 156 Application is hereby made to obtain a permit to do the  
 157 work and installations as indicated. I certify that no work or  
 158 installation has commenced prior to the issuance of a permit and  
 159 that all work will be performed to meet the standards of all  
 160 laws regulating construction in this jurisdiction. I understand  
 161 that a separate permit must be secured for ELECTRICAL WORK,  
 162 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,  
 163 TANKS, and AIR CONDITIONERS, etc.

164  
 165 OWNER'S AFFIDAVIT: I certify that all the foregoing information  
 166 is accurate and that all work will be done in compliance with  
 167 all applicable laws regulating construction and zoning.

HB 1443

2006

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WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF  
COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO  
YOUR PROPERTY.

IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR  
AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

(Signature of Owner or Agent)  
(including contractor)

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_  
day of \_\_\_\_\_, (year) , by (name of person making statement)  
.

(Signature of Notary Public - State of Florida)  
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_  
(Signature of Contractor)

HB 1443

2006

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STATE OF FLORIDA  
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.

(Signature of Notary Public - State of Florida)  
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

(Certificate of Competency Holder)

Contractor's State Certification or Registration No. \_\_\_\_\_

Contractor's Certificate of Competency No. \_\_\_\_\_

APPLICATION APPROVED BY  
\_\_\_\_\_ Permit Officer

(b) Consistent with the requirements of paragraph (a), an  
authority responsible for issuing building permits under this  
section may accept a building permit application in an



224 electronic format, as prescribed by the authority. Building  
 225 permit applications submitted to the authority electronically  
 226 must contain the following additional statement:

227  
 228 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of  
 229 perjury, I declare that all the information contained in this  
 230 building permit application is true and correct.

231  
 232 (c) An authority responsible for issuing building permit  
 233 applications which accepts building permit applications in an  
 234 electronic format shall provide public Internet access to the  
 235 electronic building permit applications in a searchable format.

236 Section 3. Section 713.35, Florida Statutes, is amended to  
 237 read:

238 713.35 Making or furnishing false statement.--Any person,  
 239 firm, or corporation who knowingly and intentionally makes or  
 240 furnishes to another person, firm, or corporation, ~~a written~~  
 241 ~~statement in the form of~~ an affidavit, a waiver or release of  
 242 lien, or other document, whether or not under oath, containing  
 243 false information about the payment status of subcontractors,  
 244 sub-subcontractors, or suppliers in connection with the  
 245 improvement of real property in this state, knowing that the one  
 246 to whom it was furnished might rely on it, and the one to whom  
 247 it was furnished will part with draw payments or final payment  
 248 relying on the truth of such statement as an inducement to do so  
 249 commits is guilty of a felony of the third degree, punishable as  
 250 provided in s. 775.082 or s. 775.083. A state attorney or the  
 251 statewide prosecutor, upon the filing of an indictment or

HB 1443

2006

252 information against a contractor, subcontractor, or sub-  
253 subcontractor which charges such person with a violation of this  
254 section, shall forward a copy of the indictment or information  
255 to the Department of Business and Professional Regulation. The  
256 Department of Business and Professional Regulation shall  
257 promptly open an investigation into the matter and, if probable  
258 cause is found, shall furnish a copy of any investigative report  
259 to the state attorney or statewide prosecutor who furnished a  
260 copy of the indictment or information and to the owner of the  
261 property which is the subject of the investigation.

262 Section 4. This act shall take effect October 1, 2006.