

## CHAMBER ACTION

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1 The Local Government Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the Construction Lien Law; amending s.  
7 713.135, F.S.; revising certain notice of commencement and  
8 applicability of lien requirements for certain authorities  
9 issuing building permits; prohibiting private providers  
10 performing inspection services from performing or  
11 approving certain inspections under certain circumstances;  
12 increasing a threshold amount for certain application  
13 requirement exemptions; prohibiting issuing authorities  
14 from requiring recordation of a notice of commencement for  
15 certain purposes; authorizing fees for furnishing copies  
16 of certain statements; authorizing authorities issuing  
17 building permits to accept permit applications  
18 electronically; requiring an electronic submission  
19 statement on building permit applications; requiring  
20 provision of Internet access; amending s. 713.18, F.S.;  
21 providing for electronic evidence of delivery of notices  
22 required by the Construction Lien Law; amending s. 713.35,  
23 F.S.; revising provisions relating to the making or

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24 |       furnishing of false statements on certain construction  
25 |       documents; providing penalties; providing an effective  
26 |       date.

27

28 | Be It Enacted by the Legislature of the State of Florida:

29

30 |       Section 1. Paragraphs (b) and (d) of subsection (1) and  
31 |       subsections (4) and (6) of section 713.135, Florida Statutes,  
32 |       are amended, and paragraph (e) is added to subsection (1) of  
33 |       that section, to read:

34 |       713.135 Notice of commencement and applicability of  
35 |       lien.--

36 |       (1) When any person applies for a building permit, the  
37 |       authority issuing such permit shall:

38 |       (b) Provide the applicant and the owner of the real  
39 |       property upon which improvements are to be constructed with a  
40 |       printed statement stating that the right, title, and interest of  
41 |       the person who has contracted for the improvement may be subject  
42 |       to attachment under the Construction Lien Law. The Department of  
43 |       Business and Professional Regulation shall furnish, for  
44 |       distribution, the statement described in this paragraph, and the  
45 |       statement must be a summary of the Construction Lien Law and  
46 |       must include an explanation of the provisions of the  
47 |       Construction Lien Law relating to the recording, and the posting  
48 |       of copies, of notices of commencement and a statement  
49 |       encouraging the owner to record a notice of commencement and  
50 |       post a copy of the notice of commencement in accordance with s.  
51 |       713.13. The statement must also contain an explanation of the

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

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

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

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

105 (4) The several boards of county commissioners, municipal  
106 councils, or other similar bodies may by ordinance or resolution  
107 establish reasonable fees for furnishing copies of the forms and

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108 | the printed statement provided in ~~paragraphs~~ paragraph (1) (b)  
 109 | and (d) in an amount not to exceed \$5 to be paid by the  
 110 | applicant for each permit in addition to all other costs of the  
 111 | permit; however, no forms or statement need be furnished,  
 112 | mailed, or otherwise provided to, nor may such additional fee be  
 113 | obtained from, applicants for permits in those cases in which  
 114 | the owner of a legal or equitable interest (including that of  
 115 | ownership of stock of a corporate landowner) of the real  
 116 | property to be improved is engaged in the business of  
 117 | construction of buildings for sale to others and intends to make  
 118 | the improvements authorized by the permit on the property and  
 119 | upon completion will offer the improved real property for sale.

120 |       (6) (a) In addition to any other information required by  
 121 | the authority issuing the permit, the building permit  
 122 | application must be in substantially the following form:

123 |  
 124 | Tax Folio No. \_\_\_\_\_

125 | BUILDING PERMIT APPLICATION

126 |

127 | Owner's Name

128 | Owner's Address

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

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

131 | City

132 | State \_\_\_\_\_ Zip \_\_\_\_\_

133 | Contractor's Name

134 | Contractor's Address

135 | City

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136 State \_\_\_\_\_ Zip \_\_\_\_\_  
 137 Job Name  
 138 Job Address  
 139 City \_\_\_\_\_ County \_\_\_\_\_  
 140 Legal Description  
 141 Bonding Company  
 142 Bonding Company Address  
 143 City \_\_\_\_\_ State \_\_\_\_\_  
 144 Architect/Engineer's Name  
 145 Architect/Engineer's Address  
 146 Mortgage Lender's Name  
 147 Mortgage Lender's Address

148  
 149 Application is hereby made to obtain a permit to do the  
 150 work and installations as indicated. I certify that no work or  
 151 installation has commenced prior to the issuance of a permit and  
 152 that all work will be performed to meet the standards of all  
 153 laws regulating construction in this jurisdiction. I understand  
 154 that a separate permit must be secured for ELECTRICAL WORK,  
 155 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,  
 156 TANKS, and AIR CONDITIONERS, etc.

157  
 158 OWNER'S AFFIDAVIT: I certify that all the foregoing information  
 159 is accurate and that all work will be done in compliance with  
 160 all applicable laws regulating construction and zoning.

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

166  
167

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

170

171 | (Signature of Owner or Agent)  
172 | (including contractor)

173 | STATE OF FLORIDA

174 | COUNTY OF \_\_\_\_\_

175

176

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

179 | .

180

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

183

184 | Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

185

186 | Type of Identification Produced \_\_\_\_\_

187 | (Signature of Contractor)

188

189

190 | STATE OF FLORIDA

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191 COUNTY OF \_\_\_\_\_

192

193

194 Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_

195 day of \_\_\_\_\_, (year) , by (name of person making statement)

196 .

197

198 (Signature of Notary Public - State of Florida)

199 (Print, Type, or Stamp Commissioned Name of Notary Public)

200

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

202

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

204

205 (Certificate of Competency Holder)

206

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

208

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

210

211 APPLICATION APPROVED BY

212 \_\_\_\_\_ Permit Officer

213

214 (b) Consistent with the requirements of paragraph (a), an  
215 authority responsible for issuing building permits under this  
216 section may accept a building permit application in an  
217 electronic format, as prescribed by the authority. Building  
218 permit applications submitted to the authority electronically



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219 must contain the following additional statement in lieu of the  
 220 requirement in paragraph (a) that a signed, sworn, and notarized  
 221 signature of the owner or agent and the contractor be part of  
 222 the owner's affidavit:

223  
 224 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of  
 225 perjury, I declare that all the information contained in this  
 226 building permit application is true and correct.

227  
 228 (c) An authority responsible for issuing building permit  
 229 applications which accepts building permit applications in an  
 230 electronic format shall provide public Internet access to the  
 231 electronic building permit applications in a searchable format.

232 Section 2. Paragraph (b) of subsection (1) of section  
 233 713.18, Florida Statutes, is amended to read:

234 713.18 Manner of serving notices and other instruments.--

235 (1) Service of notices, claims of lien, affidavits,  
 236 assignments, and other instruments permitted or required under  
 237 this part, or copies thereof when so permitted or required,  
 238 unless otherwise specifically provided in this part, must be  
 239 made by one of the following methods:

240 (b) By sending the same by registered or certified mail,  
 241 with postage prepaid, or by overnight or second-day delivery  
 242 with evidence of delivery, which may be in an electronic format.

243 1. If a notice to owner, a notice to contractor under s.  
 244 713.23, or a preliminary notice under s. 255.05 is mailed by  
 245 registered or certified mail with postage prepaid to the person  
 246 to be served at any of the addresses set forth in subparagraph

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247 2. within 40 days after the date the lienor first furnishes  
 248 labor, services, or materials, service of that notice is  
 249 effective as of the date of mailing if the person who served the  
 250 notice maintains a registered or certified mail log that shows  
 251 the registered or certified mail number issued by the United  
 252 States Postal Service, the name and address of the person  
 253 served, and the date stamp of the United States Postal Service  
 254 confirming the date of mailing or if the person who served the  
 255 notice maintains electronic tracking records generated through  
 256 use of the United States Postal Service Confirm service or a  
 257 similar service containing the postal tracking number, the name  
 258 and address of the person served, and verification of the date  
 259 of receipt by the United States Postal Service.

260 2. If an instrument served pursuant to this section to the  
 261 last address shown in the notice of commencement or any  
 262 amendment thereto or, in the absence of a notice of  
 263 commencement, to the last address shown in the building permit  
 264 application, or to the last known address of the person to be  
 265 served, is not received, but is returned as being "refused,"  
 266 "moved, not forwardable," or "unclaimed," or is otherwise not  
 267 delivered or deliverable through no fault of the person serving  
 268 the item, then service is effective on the date the notice was  
 269 sent.

270 Section 3. Section 713.35, Florida Statutes, is amended to  
 271 read:

272 713.35 Making or furnishing false statement.--Any person,  
 273 firm, or corporation who knowingly and intentionally makes or  
 274 furnishes to another person, firm, or corporation, ~~a written~~

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275 | ~~statement in the form of~~ an affidavit, a waiver or release of  
276 | lien, or other document, whether or not under oath, containing  
277 | false information about the payment status of subcontractors,  
278 | sub-subcontractors, or suppliers in connection with the  
279 | improvement of real property in this state, knowing that the one  
280 | to whom it was furnished might rely on it, and the one to whom  
281 | it was furnished will part with draw payments or final payment  
282 | relying on the truth of such statement as an inducement to do so  
283 | commits ~~is guilty of~~ a felony of the third degree, punishable as  
284 | provided in s. 775.082 or s. 775.083. A state attorney or the  
285 | statewide prosecutor, upon the filing of an indictment or  
286 | information against a contractor, subcontractor, or sub-  
287 | subcontractor which charges such person with a violation of this  
288 | section, shall forward a copy of the indictment or information  
289 | to the Department of Business and Professional Regulation. The  
290 | Department of Business and Professional Regulation shall  
291 | promptly open an investigation into the matter and, if probable  
292 | cause is found, shall furnish a copy of any investigative report  
293 | to the state attorney or statewide prosecutor who furnished a  
294 | copy of the indictment or information and to the owner of the  
295 | property which is the subject of the investigation.

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