

By Senator Constantine

22-297-06

1 A bill to be entitled
2 An act relating to the Construction Lien Law;
3 amending s. 713.13, F.S.; amending payment
4 requirements relating to notice of
5 commencement; amending s. 713.135, F.S.;
6 revising certain requirements for notice of
7 commencement and applicability of liens which
8 pertain to certain authorities issuing building
9 permits; prohibiting private providers
10 performing inspection services from performing
11 or approving certain inspections under certain
12 circumstances; increasing a threshold amount
13 for certain nonapplication; prohibiting issuing
14 authorities or building officials from
15 requiring recordation of a notice of
16 commencement for certain purposes; authorizing
17 authorities issuing building permits to accept
18 permit applications electronically; requiring
19 an electronic application to include an
20 electronic submission statement; requiring the
21 provision of Internet access to electronically
22 submitted building permit applications;
23 amending s. 713.35, F.S.; revising the list of
24 legal documents in which it is a crime to
25 knowingly and intentionally include certain
26 false information; providing penalties;
27 providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:
30
31

1 Section 1. Paragraph (c) of subsection (1) of section
2 713.13, Florida Statutes, is amended to read:

3 713.13 Notice of commencement.--

4 (1)

5 (c) If the contract between the owner and a contractor
6 named in the notice of commencement expresses a period of time
7 for completion for the construction of the improvement greater
8 than 1 year, the notice of commencement must state that it is
9 effective for a period of 1 year plus any additional period of
10 time. Any payments made by the owner before the recordation
11 of or after the expiration of the notice of commencement are
12 considered improper payments.

13 Section 2. Paragraphs (b) and (d) of subsection (1)
14 and subsections (4) and (6) of section 713.135, Florida
15 Statutes, are amended, and paragraph (e) is added to
16 subsection (1) of that section, to read:

17 713.135 Notice of commencement and applicability of
18 lien.--

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

21 (b) Provide the applicant and the owner of the real
22 property upon which improvements are to be constructed with a
23 printed statement stating that the right, title, and interest
24 of the person who has contracted for the improvement may be
25 subject to attachment under the Construction Lien Law. The
26 Department of Business and Professional Regulation shall
27 furnish, for distribution, the statement described in this
28 paragraph, and the statement must be a summary of the
29 Construction Lien Law and must include an explanation of the
30 provisions of the Construction Lien Law relating to the
31 recording, and the posting of copies, of notices of

1 commencement and a statement encouraging the owner to record a
2 notice of commencement and post a copy of the notice of
3 commencement in accordance with s. 713.13. The statement must
4 also contain an explanation of the owner's rights if a lienor
5 fails to furnish the owner with a notice as provided in s.
6 713.06(2) and an explanation of the owner's rights as provided
7 in s. 713.22. The authority that issues the building permit
8 must obtain from the Department of Business and Professional
9 Regulation the statement required by this paragraph and must
10 mail, deliver by electronic mail or other electronic format or
11 facsimile, or personally deliver that statement to the owner
12 or, if the owner is required to personally appear to obtain
13 the permit, provide that statement to any owner making
14 improvements to real property consisting of a single or
15 multiple family dwelling up to and including four units.
16 However, the failure by the authorities to provide the summary
17 does not subject the issuing authority to liability.

18 (d) Furnish to the applicant two or more copies of a
19 form of notice of commencement conforming with s. 713.13. If
20 the direct contract is greater than \$2,500, the applicant
21 shall file with the issuing authority prior to the first
22 inspection either a certified copy of the recorded notice of
23 commencement or a notarized statement that the notice of
24 commencement has been filed for recording, along with a copy
25 thereof. In the absence of the filing of a certified copy of
26 the recorded notice of commencement, the issuing authority or
27 a private provider performing inspection services may ~~shall~~
28 not perform or approve subsequent inspections until the
29 applicant files by mail, facsimile, hand delivery, or any
30 other means such certified copy with the issuing authority.
31 The certified copy of the notice of commencement must contain

1 | the name and address of the owner, the name and address of the
2 | contractor, and the location or address of the property being
3 | improved. The issuing authority shall verify that the name and
4 | address of the owner, the name of the contractor, and the
5 | location or address of the property being improved which is
6 | contained in the certified copy of the notice of commencement
7 | is consistent with the information in the building permit
8 | application. The issuing authority shall provide the recording
9 | information on the certified copy of the recorded notice of
10 | commencement to any person upon request. This subsection does
11 | not require the recording of a notice of commencement prior to
12 | the issuance of a building permit. If a local government
13 | requires a separate permit or inspection for installation of
14 | temporary electrical service or other temporary utility
15 | service, land clearing, or other preliminary site work, such
16 | permits may be issued and such inspections may be conducted
17 | without providing the issuing authority with a certified copy
18 | of a recorded notice of commencement or a notarized statement
19 | regarding a recorded notice of commencement. This subsection
20 | does not apply to a direct contract to repair or replace an
21 | existing heating or air-conditioning system in an amount less
22 | than ~~\$7,500~~ ~~\$5,000~~.

23 | (e) An issuing authority or a building official may
24 | not require that a notice of commencement be recorded as a
25 | condition of the application, processing, or issuance of a
26 | building permit. However, this paragraph does not modify or
27 | waive the inspection requirements set forth in this
28 | subsection.

29 | (4) The several boards of county commissioners,
30 | municipal councils, or other similar bodies may by ordinance
31 | or resolution establish reasonable fees for furnishing copies

1 of the forms and the printed statement provided in paragraphs
2 (1)(b) and (d) ~~paragraph (1)(d)~~ in an amount not to exceed \$5
3 to be paid by the applicant for each permit in addition to all
4 other costs of the permit; however, the ~~no~~ forms or statement
5 need not be furnished, mailed, or otherwise provided to, and
6 ~~nor may~~ such additional fee may not be obtained from,
7 applicants for permits in those cases in which the owner of a
8 legal or equitable interest (including that of ownership of
9 stock of a corporate landowner) of the real property to be
10 improved is engaged in the business of construction of
11 buildings for sale to others and intends to make the
12 improvements authorized by the permit on the property and upon
13 completion will offer the improved real property for sale.

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

17
18 Tax Folio No.....
19 BUILDING PERMIT APPLICATION
20
21 Owner's Name.....
22 Owner's Address.....
23 Fee Simple Titleholder's Name (If other than owner).....
24 Fee Simple Titleholder's Address (If other than owner).....
25 City.....
26 State..... Zip.....
27 Contractor's Name.....
28 Contractor's Address.....
29 City.....
30 State..... Zip.....
31 Job Name.....

1 Job Address.....
2 City..... County.....
3 Legal Description.....
4 Bonding Company.....
5 Bonding Company Address.....
6 City..... State.....
7 Architect/Engineer's Name.....
8 Architect/Engineer's Address.....
9 Mortgage Lender's Name.....
10 Mortgage Lender's Address.....

11
12 Application is hereby made to obtain a permit to do the
13 work and installations as indicated. I certify that no work
14 or installation has commenced prior to the issuance of a
15 permit and that all work will be performed to meet the
16 standards of all laws regulating construction in this
17 jurisdiction. I understand that a separate permit must be
18 secured for ELECTRICAL WORK, PLUMBING, SIGNS, WELLS, POOLS,
19 FURNACES, BOILERS, HEATERS, TANKS, and AIR CONDITIONERS, etc.

20
21 OWNER'S AFFIDAVIT: I certify that all the foregoing
22 information is accurate and that all work will be done in
23 compliance with all applicable laws regulating construction
24 and zoning.

25
26 WARNING TO OWNER: YOUR FAILURE TO RECORD A
27 NOTICE OF COMMENCEMENT MAY RESULT IN YOUR
28 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY.

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1 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH
2 YOUR LENDER OR AN ATTORNEY BEFORE RECORDING
3 YOUR NOTICE OF COMMENCEMENT.
4
5 ...(Signature of Owner or Agent)...
6 ...(including contractor)...
7 STATE OF FLORIDA
8 COUNTY OF
9
10
11 Sworn to (or affirmed) and subscribed before me this
12 day of, ...(year)..., by ...(name of person making
13 statement)....
14
15 ...(Signature of Notary Public - State of Florida)...
16 ...(Print, Type, or Stamp Commissioned Name of Notary
17 Public)...
18
19 Personally Known OR Produced Identification
20
21 Type of Identification Produced.....
22 ...(Signature of Contractor)...
23
24
25 STATE OF FLORIDA
26 COUNTY OF
27
28
29 Sworn to (or affirmed) and subscribed before me this
30 day of, ...(year)..., by ...(name of person making
31 statement)....

1
2 ...(Signature of Notary Public - State of Florida)...
3 ...(Print, Type, or Stamp Commissioned Name of Notary
4 Public)...
5
6 Personally Known OR Produced Identification
7
8 Type of Identification Produced.....
9
10 (Certificate of Competency Holder)
11
12 Contractor's State Certification or Registration No.....
13
14 Contractor's Certificate of Competency No.....
15
16 APPLICATION APPROVED BY
17Permit Officer
18
19 (b) Consistent with the requirements of paragraph (a),
20 an authority responsible for issuing building permits under
21 this section may accept a building permit application in an
22 electronic format, as prescribed by the authority. A building
23 permit application that is submitted electronically to the
24 authority must contain the following additional statement:
25
26 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of
27 perjury, I declare that all the information contained in this
28 building permit application is true and correct.
29
30 (c) An authority responsible for issuing building
31 permit applications which accepts building permit applications

1 in an electronic format must provide public Internet access to
2 the electronic building permit applications in a searchable
3 format.

4 Section 3. Section 713.35, Florida Statutes, is
5 amended to read:

6 713.35 Making or furnishing false statement.--Any
7 person, firm, or corporation who knowingly and intentionally
8 makes or furnishes to another person, firm, or corporation, ~~a~~
9 ~~written statement in the form of an affidavit, waiver or~~
10 release of lien, or other document, whether or not under oath,
11 containing false information about the payment status of
12 subcontractors, sub-subcontractors, or suppliers in connection
13 with the improvement of real property in this state, knowing
14 that the one to whom it was furnished might rely on it, and
15 the one to whom it was furnished will part with draw payments
16 or final payment relying on the truth of such statement as an
17 inducement to do so commits ~~is guilty of~~ a felony of the third
18 degree, punishable as provided in s. 775.082 or s. 775.083. A
19 state attorney or the statewide prosecutor, upon the filing of
20 an indictment or information against a contractor,
21 subcontractor, or sub-subcontractor which charges such person
22 with a violation of this section, shall forward a copy of the
23 indictment or information to the Department of Business and
24 Professional Regulation. The Department of Business and
25 Professional Regulation shall promptly open an investigation
26 into the matter and, if probable cause is found, shall furnish
27 a copy of any investigative report to the state attorney or
28 statewide prosecutor who furnished a copy of the indictment or
29 information and to the owner of the property which is the
30 subject of the investigation.

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

SENATE SUMMARY

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2
3 Amends the Construction Lien Law. Amends payment
4 requirements relating to notice of commencement. Revises
5 certain requirements for notice of commencement and
6 applicability of liens which pertain to certain
7 authorities issuing building permits. Prohibits private
8 providers performing inspection services from performing
9 or approving certain inspections under certain
10 circumstances. Increases a threshold amount for certain
11 nonapplication. Prohibits issuing authorities or building
12 officials from requiring recordation of a notice of
13 commencement for certain purposes. Authorizes authorities
14 issuing building permits to accept permit applications
15 electronically. Requires that an electronic application
16 include an electronic submission statement. Requires that
17 Internet access to electronically submitted building
18 permit applications be provided. Provides that it is a
19 crime to knowingly and intentionally include certain
20 false information in a waiver or release of lien, or
21 other document, as well as in an affidavit. Provides
22 penalties for furnishing false information.
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