

Bill No. SB 744

Barcode 242776

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Wise) recommended the following amendment:

Senate Amendment (with title amendment)

On page 5, between lines 30 and 31,

insert:

Section 5. Subsection (5) of section 713.02, Florida Statutes, is repealed.

Section 6. Paragraph (c) of subsection (1) of section 713.13, Florida Statutes, is amended to read:

713.13 Notice of commencement.--

(1)

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

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1 Section 7. Paragraphs (b) and (d) of subsection (1)
2 and subsections (4) and (6) of section 713.135, Florida
3 Statutes, are amended, and paragraph (e) is added to
4 subsection (1) of that section, to read:

5 713.135 Notice of commencement and applicability of
6 lien.--

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

9 (b) Provide the applicant and the owner of the real
10 property upon which improvements are to be constructed with a
11 printed statement stating that the right, title, and interest
12 of the person who has contracted for the improvement may be
13 subject to attachment under the Construction Lien Law. The
14 Department of Business and Professional Regulation shall
15 furnish, for distribution, the statement described in this
16 paragraph, and the statement must be a summary of the
17 Construction Lien Law and must include an explanation of the
18 provisions of the Construction Lien Law relating to the
19 recording, and the posting of copies, of notices of
20 commencement and a statement encouraging the owner to record a
21 notice of commencement and post a copy of the notice of
22 commencement in accordance with s. 713.13. The statement must
23 also contain an explanation of the owner's rights if a lienor
24 fails to furnish the owner with a notice as provided in s.
25 713.06(2) and an explanation of the owner's rights as provided
26 in s. 713.22. The authority that issues the building permit
27 must obtain from the Department of Business and Professional
28 Regulation the statement required by this paragraph and must
29 mail, deliver by electronic mail or other electronic format or
30 facsimile, or personally deliver that statement to the owner
31 or, if the owner is required to personally appear to obtain

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1 the permit, provide that statement to any owner making
 2 improvements to real property consisting of a single or
 3 multiple family dwelling up to and including four units.
 4 However, the failure by the authorities to provide the summary
 5 does not subject the issuing authority to liability.

6 (d) Furnish to the applicant two or more copies of a
 7 form of notice of commencement conforming with s. 713.13. If
 8 the direct contract is greater than ~~\$2,500~~ \$5,000, the
 9 applicant shall file with the issuing authority prior to the
 10 first inspection either a certified copy of the recorded
 11 notice of commencement or a notarized statement that the
 12 notice of commencement has been filed for recording, along
 13 with a copy thereof. In the absence of the filing of a
 14 certified copy of the recorded notice of commencement, the
 15 issuing authority or a private provider performing inspection
 16 services may ~~shall~~ not perform or approve subsequent
 17 inspections until the applicant files by mail, facsimile, hand
 18 delivery, or any other means such a certified copy with the
 19 issuing authority. The certified copy of the notice of
 20 commencement must contain the name and address of the owner,
 21 the name and address of the contractor, and the location or
 22 address of the property being improved. The issuing authority
 23 shall verify that the name and address of the owner, the name
 24 of the contractor, and the location or address of the property
 25 being improved which is contained in the certified copy of the
 26 notice of commencement is consistent with the information in
 27 the building permit application. The issuing authority shall
 28 provide the recording information on the certified copy of the
 29 recorded notice of commencement to any person upon request.
 30 This subsection does not require the recording of a notice of
 31 commencement prior to the issuance of a building permit. If a

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1 local government requires a separate permit or inspection for
 2 installation of temporary electrical service or other
 3 temporary utility service, land clearing, or other preliminary
 4 site work, such permits may be issued and such inspections may
 5 be conducted without providing the issuing authority with a
 6 certified copy of a recorded notice of commencement or a
 7 notarized statement regarding a recorded notice of
 8 commencement. This subsection does not apply to a direct
 9 contract to repair or replace an existing heating or
 10 air-conditioning system in an amount less than ~~\$7,500~~ \$5,000.

11 (e) An issuing authority or a building official may
 12 not require that a notice of commencement be recorded as a
 13 condition of the application, processing, or issuance of a
 14 building permit. However, this paragraph does not modify or
 15 waive the inspection requirements set forth in this
 16 subsection.

17 (4) The several boards of county commissioners,
 18 municipal councils, or other similar bodies may by ordinance
 19 or resolution establish reasonable fees for furnishing copies
 20 of the forms and the printed statement provided in paragraphs
 21 (1)(b) and (d) paragraph (1)(d) in an amount not to exceed \$5
 22 to be paid by the applicant for each permit in addition to all
 23 other costs of the permit; however, no forms or statement need
 24 be furnished to, nor may such additional fee be obtained from,
 25 applicants for permits in those cases in which the owner of a
 26 legal or equitable interest (including that of ownership of
 27 stock of a corporate landowner) of the real property to be
 28 improved is engaged in the business of construction of
 29 buildings for sale to others and intends to make the
 30 improvements authorized by the permit on the property and upon
 31 completion will offer the improved real property for sale.

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

4
5 Tax Folio No.....

6 BUILDING PERMIT APPLICATION

7
8 Owner's Name.....
9 Owner's Address.....
10 Fee Simple Titleholder's Name (If other than owner).....
11 Fee Simple Titleholder's Address (If other than owner).....
12 City.....
13 State..... Zip.....
14 Contractor's Name.....
15 Contractor's Address.....
16 City.....
17 State..... Zip.....
18 Job Name.....
19 Job Address.....
20 City..... County.....
21 Legal Description.....
22 Bonding Company.....
23 Bonding Company Address.....
24 City..... State.....
25 Architect/Engineer's Name.....
26 Architect/Engineer's Address.....
27 Mortgage Lender's Name.....
28 Mortgage Lender's Address.....

29
30 Application is hereby made to obtain a permit to do the
31 work and installations as indicated. I certify that no work

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1 or installation has commenced prior to the issuance of a
 2 permit and that all work will be performed to meet the
 3 standards of all laws regulating construction in this
 4 jurisdiction. I understand that a separate permit must be
 5 secured for ELECTRICAL WORK, PLUMBING, SIGNS, WELLS, POOLS,
 6 FURNACES, BOILERS, HEATERS, TANKS, and AIR CONDITIONERS, etc.

7
 8 OWNER'S AFFIDAVIT: I certify that all the foregoing
 9 information is accurate and that all work will be done in
 10 compliance with all applicable laws regulating construction
 11 and zoning.

12
 13 WARNING TO OWNER: YOUR FAILURE TO RECORD A
 14 NOTICE OF COMMENCEMENT MAY RESULT IN YOUR
 15 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY.

16
 17 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH
 18 YOUR LENDER OR AN ATTORNEY BEFORE RECORDING
 19 YOUR NOTICE OF COMMENCEMENT.

20
 21 ... (Signature of Owner or Agent) ...
 22 ... (including contractor) ...

23 STATE OF FLORIDA
 24 COUNTY OF

25
 26
 27 Sworn to (or affirmed) and subscribed before me this
 28 day of, ...(year)...., by ...(name of person making
 29 statement)....

30
 31 ... (Signature of Notary Public - State of Florida) ...

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1 APPLICATION APPROVED BY

2Permit Officer

3

4 (b) Consistent with the requirements of paragraph (a),
5 an authority responsible for issuing building permits under
6 this section may accept a building permit application in an
7 electronic format as prescribed by the authority. A building
8 permit application that is submitted electronically to the
9 authority must contain the following additional statement:

10

11

12 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under
13 penalty of perjury, I declare that all the
14 information contained in this building permit
15 application is true and correct.

16

17 (c) An authority responsible for issuing building
18 permit applications which accepts building permit applications
19 in an electronic format must provide public Internet access to
20 the electronic building permit applications in a searchable
21 format.

22

23 Section 8. Paragraph (b) of subsection (1) of section

24

25 713.18 Manner of serving notices and other
instruments.--

26

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

31

(a) By actual delivery to the person to be served; or,

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1 if a partnership, to one of the partners; or, if a
2 corporation, to an officer, director, managing agent, or
3 business agent thereof.

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

8 1. If a notice to owner, a notice to contractor under
9 s. 713.23, or a preliminary notice under s. 255.05 is mailed
10 by registered or certified mail with postage prepaid to the
11 person to be served at any of the addresses set forth in
12 subparagraph 2. within 40 days after the date the lienor first
13 furnishes labor, services, or materials, service of that
14 notice is effective as of the date of mailing if the person
15 who served the notice maintains a registered or certified mail
16 log that shows the registered or certified mail number issued
17 by the United States Postal Service, the name and address of
18 the person served, and the date stamp of the United States
19 Postal Service confirming the date of mailing; or service of
20 that notice is effective as of the date of mailing if the
21 person who served the notice maintains electronic tracking
22 records generated through use of the United States Postal
23 Service "confirm" or similar service containing the postal
24 tracking number, the name and address of the person served,
25 and verification of the date of receipt by the United States
26 Postal Service.

27 2. If an instrument served pursuant to this section to
28 the last address shown in the notice of commencement or any
29 amendment thereto or, in the absence of a notice of
30 commencement, to the last address shown in the building permit
31 application, or to the last known address of the person to be

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1 served, is not received, but is returned as being "refused,"
 2 "moved, not forwardable," or "unclaimed," or is otherwise not
 3 delivered or deliverable through no fault of the person
 4 serving the item, then service is effective on the date the
 5 notice was sent.

6 Section 9. Section 713.35, Florida Statutes, is
 7 amended to read:

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

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1 subject of the investigation.

2

3 (Redesignate subsequent sections.)

4

5

6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 On page 1, lines 1 and 2, delete those lines

9

10 and insert:

11 An act relating to contracting; repealing s.
 12 713.02(5), F.S.; deleting requirements relating
 13 to an exemption from notice of commencement;
 14 amending s. 713.13, F.S.; amending payment
 15 requirements relating to notice of
 16 commencement; amending s. 713.135, F.S.;
 17 revising certain requirements for notice of
 18 commencement and applicability of liens which
 19 pertain to certain authorities issuing building
 20 permits; prohibiting private providers
 21 performing inspection services from performing
 22 or approving certain inspections under
 23 specified circumstances; increasing a threshold
 24 amount for the application of certain
 25 requirements; prohibiting issuing authorities
 26 or building officials from requiring
 27 recordation of a notice of commencement for
 28 certain purposes; authorizing authorities
 29 issuing building permits to accept permit
 30 applications electronically; requiring an
 31 electronic application to include an electronic

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1 submission statement; requiring the provision
2 of Internet access to electronically submitted
3 building permit applications; amending s.
4 713.18, F.S.; providing for electronic
5 verification of notices, claims of liens, and
6 other instruments; amending s. 713.35, F.S.;
7 revising the list of legal documents in which
8 it is a crime to knowingly and intentionally
9 include certain false information; providing
10 penalties; amending s. 489.505, F.S.;

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