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CHAMBER ACTION

Senate

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House

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1 The Committee on Regulated Industries (Aronberg and Jones)  
2 recommended the following **amendment to amendment (138458)**:

3  
4 **Senate Amendment (with title amendment)**

5 Between line(s) 1897 and 1898

6 and insert:

7 Section 16. Paragraphs (e), (f), and (g) of subsection (2)  
8 of section 489.141, Florida Statutes, are amended to read:

9 489.141 Conditions for recovery; eligibility.--

10 (2) A claimant is not qualified to make a claim for  
11 recovery from the recovery fund, if:

12 (e) The claimant was associated in a business relationship  
13 with the licensee other than the contract at issue; or

14 ~~(f) The claimant has suffered damages as the result of~~  
15 ~~making improper payments to a contractor as defined in part I of~~  
16 ~~chapter 713; or~~



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17        (f) ~~(g)~~ The claimant has contracted with a licensee to  
 18 perform a scope of work described in s. 489.105(3)(d)-(q).

19        Section 17. Paragraphs (c) and (d) of subsection (2) of  
 20 section 713.06, Florida Statutes, are amended to read:

21        713.06 Liens of persons not in privity; proper payments.--

22        (2)

23        (c) The notice may be in substantially the following form  
 24 and must include the information and the warning contained in the  
 25 following form:

26  
 27 WARNING! FLORIDA'S CONSTRUCTION LIEN LAW ALLOWS SOME UNPAID  
 28 CONTRACTORS, SUBCONTRACTORS, AND MATERIAL SUPPLIERS TO FILE LIENS  
 29 AGAINST YOUR PROPERTY EVEN IF YOU HAVE MADE PAYMENT IN FULL.

30  
 31 UNDER FLORIDA LAW, YOUR FAILURE TO MAKE SURE THAT WE ARE PAID MAY  
 32 RESULT IN A LIEN AGAINST YOUR PROPERTY AND YOUR PAYING TWICE.

33  
 34 TO AVOID A LIEN AND PAYING TWICE, YOU MUST OBTAIN A WRITTEN  
 35 RELEASE FROM US EVERY TIME YOU PAY YOUR CONTRACTOR.

36  
 37 NOTICE TO OWNER

38  
 39 To     (Owner's name and address)

40  
 41 The undersigned hereby informs you that he or she has furnished  
 42 or is furnishing services or materials as follows:

43        (General description of services or materials)     for the  
 44 improvement of the real property identified as     (property  
 45 description)     under an order given by\_\_\_\_\_.

46

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47 Florida law prescribes the serving of this notice and restricts  
48 your right to make payments under your contract in accordance  
49 with Section 713.06, Florida Statutes.

50

51 IMPORTANT INFORMATION FOR YOUR PROTECTION

52

53 Under Florida's laws, those who work on your property or  
54 provide materials and are not paid have a right to enforce their  
55 claim for payment against your property. This claim is known as a  
56 construction lien.

57 If your contractor fails to pay subcontractors or material  
58 suppliers or neglects to make other legally required payments,  
59 the people who are owed money may look to your property for  
60 payment, EVEN IF YOU HAVE PAID YOUR CONTRACTOR IN FULL.

61

62 IN ORDER TO PROTECT YOURSELF:

63 --RECOGNIZE that this Notice to Owner may result in a lien  
64 against your property unless all those supplying a Notice to  
65 Owner have been paid.

66 --LEARN more about the Construction Lien Law, Chapter 713,  
67 Part I, Florida Statutes, and the meaning of this notice by  
68 contacting an attorney ~~or the Florida Department of Business and~~  
69 ~~Professional Regulation.~~

70

71 -- REFER to an explanation of the law by the Florida Department  
72 of Business and Professional Regulation located at  
73 [www.myflorida.com/dbpr/pro/cilb/documents/florida\\_lien\\_law.pdf](http://www.myflorida.com/dbpr/pro/cilb/documents/florida_lien_law.pdf)  
74 and The Florida Bar information pamphlet at [www.FloridaBar.org](http://www.FloridaBar.org)  
75 (click "Consumer Information" in the left column, and then select  
76 the pamphlet "Building a Home" as of April 15, 2008.

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77  
78 (Lienor's Signature)

79 (Lienor's Name)

80 (Lienor's Address)

81  
82 Copies to: (Those persons listed in Section 713.06(2) (a) and  
83 (b), Florida Statutes)

84 The form may be combined with a notice to contractor given under  
85 s. 255.05 or s. 713.23 and, if so, may be entitled "NOTICE TO  
86 OWNER/NOTICE TO CONTRACTOR."

87 (d) A notice to an owner served on a lender must be in  
88 writing, must be served in accordance with s. 713.18, and shall  
89 be addressed to the persons designated, if any, and to the place  
90 and address designated in the notice of commencement. Any lender  
91 who, after receiving a notice provided under this subsection,  
92 pays a contractor on behalf of the owner for an improvement shall  
93 make proper payments as provided in paragraph (3) (c) as to each  
94 such notice received by the lender. The failure of a lender to  
95 comply with this paragraph renders the lender liable ~~to the owner~~  
96 for all damages sustained by the owner as a result of that  
97 failure. ~~This paragraph does not give any person other than an~~  
98 ~~owner a claim or right of action against a lender for the failure~~  
99 ~~of the lender to comply with this paragraph.~~ Further, this  
100 paragraph does not prohibit a lender from disbursing construction  
101 funds at any time directly to the owner, in which event the  
102 lender has no obligation to make proper payments under this  
103 paragraph if all such disbursements are made in accordance with  
104 s. 713.3471.

105 Section 18. Subsection (2) of section 713.07, Florida  
106 Statutes, is amended to read:

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107 | 713.07 Priority of liens.--

108 | (2) Liens under ss. 713.05 and 713.06 shall attach and take  
109 | priority as of the time of recordation of the notice of  
110 | commencement, ~~but~~ if the lien is recorded within the effective  
111 | period of the notice of commencement. In the event a notice of  
112 | commencement is not filed, then such liens shall attach and take  
113 | priority as of the time the claim of lien is recorded.

114 | Section 19. Paragraphs (c) and (d) of subsection (1) and  
115 | subsection (2) of section 713.13, Florida Statutes, are amended,  
116 | and present subsections (3), (4), (5), (6), and (7) are  
117 | redesignated as (2), (3), (4), (5), and (6) respectively, to  
118 | read:

119 | 713.13 Notice of commencement.--

120 | (1)

121 | (c) If the contract between the owner and a contractor  
122 | named in the notice of commencement expresses a period of time  
123 | for completion for the construction of the improvement greater  
124 | than 1 year, the notice of commencement must state that it is  
125 | effective for a period of 1 year plus any additional period of  
126 | time. ~~Any~~ No payments made by the owner after the expiration of  
127 | the notice of commencement ~~are~~ shall be considered improper  
128 | payments.

129 | (d) A notice of commencement must be in substantially the  
130 | following form:

131 |

132 | Permit No. \_\_\_\_\_ Tax Folio No. \_\_\_\_\_

133 | NOTICE OF COMMENCEMENT

134 | State of \_\_\_\_\_

135 | County of \_\_\_\_\_

136 |

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137 The undersigned hereby gives notice that improvement will be made  
138 to certain real property, and in accordance with Chapter 713,  
139 Florida Statutes, the following information is provided in this  
140 Notice of Commencement.

141 1. Description of property: (legal description of the  
142 property, and street address if available) .

143 2. General description of improvement:\_\_\_\_\_.

144 3. Owner information:\_\_\_\_\_.

145 a. Name and address:\_\_\_\_\_.

146 b. Interest in property:\_\_\_\_\_.

147 c. Name and address of fee simple titleholder (if other  
148 than Owner):\_\_\_\_\_.

149 4.a. Contractor: (name and address) .

150 b. Contractor's phone number:\_\_\_\_\_.

151 5. Surety

152 a. Name and address:\_\_\_\_\_.

153 b. Phone number:\_\_\_\_\_.

154 c. Amount of bond: \$\_\_\_\_\_.

155 6.a. Lender: (name and address) .

156 b. Lender's phone number:\_\_\_\_\_.

157 7.a. Persons within the State of Florida designated by  
158 Owner upon whom notices or other documents may be served as  
159 provided by Section 713.13(1)(a)7., Florida Statutes: (name and  
160 address) .

161 b. Phone numbers of designated persons:\_\_\_\_\_.

162 8.a. In addition to himself or herself, Owner designates  
163 \_\_\_\_\_ of \_\_\_\_\_ to receive a copy of the  
164 Lienor's Notice as provided in Section 713.13(1)(b), Florida  
165 Statutes.



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166 b. Phone number of person or entity designated by  
167 owner:\_\_\_\_\_.

168 9. Expiration date of notice of commencement (the  
169 expiration date is 1 year from the date of recording unless a  
170 different date is specified)\_\_\_\_\_.

171  
172 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE  
173 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER  
174 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA  
175 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO  
176 YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND  
177 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND  
178 TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY  
179 BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT.

180

181 ~~(Signature of Owner or Owner's Authorized~~  
182 ~~Officer/Director/Partner/Manager)~~

183

184 ~~(Signatory's Title/Office)~~

185

186 ~~The foregoing instrument was acknowledged before me this \_\_\_\_\_~~  
187 ~~day of \_\_\_\_\_, (year) \_\_\_\_\_, by \_\_\_\_\_ (name of person) \_\_\_\_\_ as \_\_\_\_\_ (type of~~  
188 ~~authority, . . . e.g. officer, trustee, attorney in fact) \_\_\_\_\_ for~~  
189 ~~\_\_\_\_\_ (name of party on behalf of whom instrument was executed) \_\_\_\_\_.~~

190

191 ~~(Signature of Notary Public - State of Florida)~~

192

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

194

195 ~~Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_~~



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

Verification pursuant to Section 92.525, Florida Statutes.

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true to the best of my knowledge and belief.

~~(Signature of Natural Person Signing Above)~~

Signature of Owner or Owner's Authorized  
Officer/Director/Partner/Manager

~~(2) If the improvement described in the notice of commencement is not actually commenced within 90 days after the recording thereof, such notice is void and of no further effect.~~

Section 20. Subsection (1) of section 713.132, Florida Statutes, is amended to read:

713.132 Notice of termination.--

(1) An owner may terminate the period of effectiveness of a notice of commencement by executing, swearing to, and recording a notice of termination, based on the owner's best knowledge and belief, that contains:

(a) The same information as the notice of commencement;

(b) The recording office document book and page reference numbers and date of the notice of commencement;

(c) A statement of the date as of which the notice of commencement is terminated, which date may not be earlier than 30 days after the notice of termination is recorded;





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224 (d) A statement specifying that the notice applies to all  
225 the real property subject to the notice of commencement or  
226 specifying the portion of such real property to which it applies;

227 (e) A statement that all lienors have been paid in full;  
228 and

229 (f) A statement that the owner has, before recording the  
230 notice of termination, served a copy of the notice of termination  
231 on the contractor and on each lienor who has given notice. The  
232 owner is not required to serve a copy of the notice of  
233 termination on any lienor who has executed a waiver and release  
234 of lien upon final payment in accordance with s. 713.20.

235 Section 21. Paragraph (b) of subsection (1) of section  
236 713.135, Florida Statutes, is amended to read:

237 713.135 Notice of commencement and applicability of lien.--

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

240 (b) ~~Provide the applicant and~~ Require the owner of the real  
241 property upon which improvements are to be constructed ~~with~~ to  
242 sign and file with the issuing authority a printed statement  
243 stating that the right, title, and interest of the person who has  
244 contracted for the improvement may be subject to attachment under  
245 the Construction Lien Law. The Department of Business and  
246 Professional Regulation shall furnish, for distribution, the  
247 statement described in this paragraph, and the statement must be  
248 a summary of the Construction Lien Law and must include an  
249 explanation of the provisions of the Construction Lien Law  
250 relating to the recording, and the posting of copies, of notices  
251 of commencement and a statement encouraging the owner to record a  
252 notice of commencement and post a copy of the notice of  
253 commencement in accordance with s. 713.13. The statement must



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254 also contain an explanation of the owner's rights if a lienor  
255 fails to furnish the owner with a notice as provided in s.  
256 713.06(2) and an explanation of the owner's rights as provided in  
257 s. 713.22. The authority that issues the building permit must  
258 obtain from the Department of Business and Professional  
259 Regulation the statement required by this paragraph and must  
260 mail, deliver by electronic mail or other electronic format or  
261 facsimile, or personally deliver that statement to the owner or,  
262 in a case in which the owner is required to personally appear to  
263 obtain the permit, provide that statement to any owner making  
264 improvements to real property consisting of a single or multiple  
265 family dwelling up to and including four units. However, the  
266 failure by the authorities to provide the summary does not  
267 subject the issuing authority to liability.

268 Section 22. Subsection (2), subsection (3) of section  
269 713.16, Florida Statutes, are amended to read:

270 713.16 Demand for copy of contract and statements of  
271 account; form.--

272 (2) The owner may serve in writing a demand of any lienor  
273 for a written statement under oath of his or her account showing  
274 the nature of the labor or services performed and to be  
275 performed, if any, the materials furnished, the materials to be  
276 furnished, if known, the amount paid on account to date, the  
277 amount due, ~~and~~ the amount to become due, if known, as of the  
278 date of the statement by the lienor, and the lienor's date of  
279 first furnishing of labor, services or materials. Any such demand  
280 to a lienor must be served on the lienor at the address and to  
281 the attention of any person who is designated to receive the  
282 demand in the notice to owner served by such lienor. The failure  
283 or refusal to furnish the statement does not deprive the lienor



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284 of his or her lien if the demand is not served at the address of  
285 the lienor or directed to the attention of the person designated  
286 to receive the demand in the notice to owner. The failure or  
287 refusal to furnish the statement under oath within 30 days after  
288 the demand, or the furnishing of a false or fraudulent statement,  
289 deprives the person so failing or refusing to furnish such  
290 statement of his or her lien. If the owner serves more than one  
291 demand for statement of account on a lienor and none of the  
292 information regarding the account has changed since the lienor's  
293 last response to a demand, the failure or refusal to furnish such  
294 statement does not deprive the lienor of his or her lien. The  
295 negligent inclusion or omission of any information deprives the  
296 person of his or her lien to the extent the owner can demonstrate  
297 prejudice from such act or omission by the lienor. The failure to  
298 furnish a response to a demand for statement of account does not  
299 affect the validity of any claim of lien being enforced through a  
300 foreclosure case filed prior to the date the demand for statement  
301 is received by the lienor.

302 (3) A request for sworn statement of account must be in  
303 substantially the following form:

304

305 REQUEST FOR SWORN STATEMENT OF ACCOUNT

306

307 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT, SIGNED  
308 UNDER OATH, WITHIN 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT  
309 WILL RESULT IN THE LOSS OF YOUR LIEN.

310

311 To: (Lienor's name and address)

312



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313 The undersigned hereby demands a written statement under oath of  
 314 his or her account showing the nature of the labor or services  
 315 performed and to be performed, if any, the materials furnished,  
 316 the materials to be furnished, if known, the amount paid on  
 317 account to date, the amount due, and the amount to become due, if  
 318 known, as of the date of the statement and the lienor's date of  
 319 first furnishing of labor, services or materials for the  
 320 improvement of real property identified as (property  
 321 description) .

322  
 323 (signature and address of owner)  
 324 (date of request for sworn statement of account)23.

325  
 326 ===== T I T L E A M E N D M E N T =====

327 And the title is amended as follows:

328 Delete line(s) 1990

329 and insert:

330 act; amending s. 489.141, F.S.; deleting improper payments  
 331 from eligibility of the construction industry recovery  
 332 fund; amending s. 713.06, F.S.; providing additional  
 333 notice requirements; amending s. 713.07, F.S.; providing  
 334 for priority of liens; amending s. 713.13, F.S.; providing  
 335 that payments made after the expiration of the notice of  
 336 commencement are not improper; clarifying notice  
 337 provisions; deleting expiration of notice of commencement  
 338 within 90 days if no improvement is commenced; amending s.  
 339 713.132, F.S.; limiting the sworn statement to the owner's  
 340 best knowledge and belief; amending s. 713.135, F.S.;  
 341 requiring the owner to sign and file statement of the  
 342 construction lien law; amending s. 713.16, F.S.; providing



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343 | additional requirements for the statement of account;  
344 | providing an effective date.