

By Senator Saunders

37-00196-08

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1 A bill to be entitled

2 An act relating to the Construction Lien Law; amending s.  
3 713.135, F.S.; clarifying provisions requiring that an  
4 applicant for a building permit record a notice of  
5 commencement before the permit is issued if the contract  
6 involves greater than a specified amount of money;  
7 revising requirements for the notice that appears on the  
8 permit card and on the application for a building permit;  
9 authorizing an authority that issues building permits to  
10 accept notices of commencement in an electronic format;  
11 requiring that the authority provide access to electronic  
12 notices of commencement in a searchable format by means of  
13 the Internet; providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. Section 713.135, Florida Statutes, is amended to  
18 read:

19 713.135 Notice of commencement and applicability of lien.--

20 (1) An authority that issues building permits may not issue  
21 a permit for a direct contract in an amount greater than \$2,500  
22 unless the applicant files, along with the application, a  
23 certified copy of the recorded notice of commencement or a  
24 notarized statement that the notice of commencement has been  
25 filed for recording. ~~When any person applies for a building~~  
26 ~~permit,~~ The authority issuing such permit shall:

27 (a) Print on the face of each permit card in no less than  
28 14-point, capitalized, boldfaced type:

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30 "WARNING TO OWNER:

31  
32 YOU MUST OBTAIN A RELEASE OF LIEN BEFORE YOU PAY ANY  
33 INSTALLMENTS ON A CONTRACT.

34  
35 DO NOT PAY THE CONTRACT IN FULL BEFORE THE CONTRACT  
36 HAS BEEN COMPLETED.

37  
38 YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY  
39 RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR  
40 PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED  
41 AND POSTED ON THE JOB SITE BEFORE THE FIRST  
42 INSPECTION. IF YOU INTEND TO OBTAIN FINANCING,  
43 CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE  
44 RECORDING YOUR NOTICE OF COMMENCEMENT."

45  
46 (b) Provide the applicant and the owner of the real  
47 property upon which improvements are to be constructed with a  
48 printed statement stating that the right, title, and interest of  
49 the person who has contracted for the improvement may be subject  
50 to attachment under the Construction Lien Law. The Department of  
51 Business and Professional Regulation shall furnish~~7~~ for  
52 distribution~~7~~ the statement described in this paragraph.~~7~~ ~~and~~ The  
53 statement must be a summary of the Construction Lien Law; and  
54 must include an explanation of the provisions of the Construction  
55 Lien Law relating to the recording, and the posting of copies, of  
56 notices of commencement; and must include a statement indicating  
57 that encouraging the owner is required to record a notice of  
58 commencement and post a copy of the notice of commencement in

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

74 |       (c) In addition to providing the owner with the statement  
75 | as required by paragraph (b), inform each applicant who is not  
76 | the person whose right, title, and interest is subject to  
77 | attachment that, as a condition to the issuance of a building  
78 | permit, the applicant must promise in good faith that the  
79 | statement will be delivered to the person whose property is  
80 | subject to attachment.

81 |       (d) Furnish to the applicant two or more copies of a form  
82 | of notice of commencement conforming with s. 713.13. ~~If the~~  
83 | ~~direct contract is greater than \$2,500, the applicant shall file~~  
84 | ~~with the issuing authority prior to the first inspection either a~~  
85 | ~~certified copy of the recorded notice of commencement or a~~  
86 | ~~notarized statement that the notice of commencement has been~~  
87 | ~~filed for recording, along with a copy thereof. In the absence of~~

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88 | ~~the filing of a certified copy of the recorded notice of~~  
89 | ~~commencement, the issuing authority or a private provider~~  
90 | ~~performing inspection services may not perform or approve~~  
91 | ~~subsequent inspections until the applicant files by mail,~~  
92 | ~~facsimile, hand delivery, or any other means such certified copy~~  
93 | ~~with the issuing authority.~~ The certified copy of the notice of  
94 | commencement must contain the name and address of the owner, the  
95 | name and address of the contractor, and the location or address  
96 | of the property being improved. The issuing authority shall  
97 | verify that the name and address of the owner, the name of the  
98 | contractor, and the location or address of the property being  
99 | improved which is contained in the certified copy of the notice  
100 | of commencement is consistent with the information in the  
101 | building permit application. The issuing authority shall provide  
102 | the recording information on the certified copy of the recorded  
103 | notice of commencement to any person upon request. This  
104 | subsection requires ~~does not require~~ the recording of a notice of  
105 | commencement prior to the issuance of a building permit if the  
106 | permit is for a direct contract in an amount greater than \$2,500.  
107 | If a local government requires a separate permit or inspection  
108 | for installation of temporary electrical service or other  
109 | temporary utility service, land clearing, or other preliminary  
110 | site work, such permits may be issued and such inspections may be  
111 | conducted without providing the issuing authority with a  
112 | certified copy of a recorded notice of commencement or a  
113 | notarized statement regarding a recorded notice of commencement.  
114 | This subsection does not apply to a direct contract to repair or  
115 | replace an existing heating or air-conditioning system in an  
116 | amount less than \$7,500.

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117 ~~(e) Not require that a notice of commencement be recorded~~  
118 ~~as a condition of the application for, or processing or issuance~~  
119 ~~of, a building permit. However, this paragraph does not modify or~~  
120 ~~waive the inspection requirements set forth in this subsection.~~

121 (2) An issuing authority under subsection (1) is not liable  
122 in any civil action for the failure:

123 (a) Of the person whose property is subject to attachment  
124 to receive or to be delivered a printed statement stating that  
125 the right, title, and interest of the person who has contracted  
126 for the improvement may be subject to attachment under the  
127 Construction Lien Law.

128 ~~(3) An issuing authority under subsection (1) is not liable~~  
129 ~~in any civil action for the failure~~

130 (b) To verify that a certified copy of the recorded notice  
131 of commencement has been filed in accordance with this section.

132 (3)~~(4)~~ The several boards of county commissioners,  
133 municipal councils, or other similar bodies may by ordinance or  
134 resolution establish reasonable fees for furnishing copies of the  
135 forms and the printed statement provided in paragraphs (1)(b) and  
136 (d) in an amount not to exceed \$5 to be paid by the applicant for  
137 each permit in addition to all other costs of the permit;  
138 however, no forms or statement need be furnished, mailed, or  
139 otherwise provided to, nor may such additional fee be obtained  
140 from, applicants for permits in those cases in which the owner of  
141 a legal or equitable interest, including that of ownership of  
142 stock of a corporate landowner, of the real property to be  
143 improved is engaged in the business of construction of buildings  
144 for sale to others and intends to make the improvements  
145 authorized by the permit on the property and upon completion will

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146 offer the improved real property for sale.

147 (4)~~(5)~~ In addition to any other information required by the  
 148 authority issuing the permit, each building permit application  
 149 must contain:

150 (a) The name and address of the owner of the real property;

151 (b) The name and address of the contractor;

152 (c) A description sufficient to identify the real property  
 153 to be improved; and

154 (d) The number or identifying symbol assigned to the  
 155 building permit by the issuing authority, which number or symbol  
 156 must be affixed to the application by the issuing authority.

157 (5)~~(6)~~ (a) In addition to any other information required by  
 158 the authority issuing the permit, the building permit application  
 159 must be in substantially the following form:

161 Tax Folio No. \_\_\_\_\_

162 BUILDING PERMIT APPLICATION

163  
 164 Owner's Name

165 Owner's Address

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

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

168 City

169 State \_\_\_\_\_ Zip \_\_\_\_\_

170 Contractor's Name

171 Contractor's Address

172 City

173 State \_\_\_\_\_ Zip \_\_\_\_\_

174 Job Name

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175 Job Address  
176 City \_\_\_\_\_ County \_\_\_\_\_  
177 Legal Description  
178 Bonding Company  
179 Bonding Company Address  
180 City \_\_\_\_\_ State \_\_\_\_\_  
181 Architect/Engineer's Name  
182 Architect/Engineer's Address  
183 Mortgage Lender's Name  
184 Mortgage Lender's Address

185

186 Application is hereby made to obtain a permit to do the work  
187 and installations as indicated. I certify that no work or  
188 installation has commenced prior to the issuance of a permit and  
189 that all work will be performed to meet the standards of all laws  
190 regulating construction in this jurisdiction. I understand that a  
191 separate permit must be secured for ELECTRICAL WORK, PLUMBING,  
192 SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS, TANKS, and AIR  
193 CONDITIONERS, etc.

194

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

198

199 WARNING TO OWNER:

200

201 YOU MUST OBTAIN A RELEASE OF LIEN BEFORE YOU PAY ANY  
202 INSTALLMENTS ON A CONTRACT.

203

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204 DO NOT PAY THE CONTRACT IN FULL BEFORE THE CONTRACT  
205 HAS BEEN COMPLETED.

206  
207 YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY  
208 RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR  
209 PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED  
210 AND POSTED ON THE JOB SITE BEFORE THE FIRST  
211 INSPECTION.

212  
213 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR  
214 LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR  
215 RECORDING YOUR NOTICE OF COMMENCEMENT.

216  
217 (Signature of Owner or Agent)

218  
219 (including contractor)

220 STATE OF FLORIDA  
221 COUNTY OF \_\_\_\_\_

222  
223  
224 Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_  
225 day of \_\_\_\_\_, (year) , by (name of person making statement).

226  
227 (Signature of Notary Public - State of Florida)  
228 (Print, Type, or Stamp Commissioned Name of Notary Public)

229  
230 Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

231  
232 Type of Identification Produced \_\_\_\_\_



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(Signature of 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 \_\_\_\_\_

(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 and notice of commencement in an electronic format, as prescribed by the

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262 authority. Building permit applications and notices of  
263 commencement submitted to the authority electronically must  
264 contain the following additional statement in lieu of the  
265 requirement in paragraph (a) that a signed, sworn, and notarized  
266 signature of the owner or agent and the contractor be part of the  
267 owner's affidavit:

268  
269 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of  
270 perjury, I declare that all the information contained in this  
271 building permit application and notice of commencement is true  
272 and correct.

273 (c) An authority responsible for issuing building permits  
274 ~~permit applications~~ which accepts building permit applications  
275 and notices of commencement in an electronic format shall provide  
276 public Internet access to the electronic building permit  
277 applications and notices of commencement in a searchable format.

278 (6) ~~(7)~~ This section applies to every municipality and  
279 county in the state which now has or hereafter may have a system  
280 of issuing building permits for the construction of improvements  
281 or for the alteration or repair of improvements on or to real  
282 property located within the geographic limits of the issuing  
283 authority.

284 Section 2. This act shall take effect July 1, 2008.