

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Civil Justice & Property
 2 Rights Subcommittee

3 Representative Toledo offered the following:

4
 5 **Amendment (with title amendment)**
 6 Remove lines 376-576 and insert:
 7 time. Any payments made by the owner after the expiration of the
 8 notice of commencement are considered improper payments.

9 (d) A notice of commencement must be in substantially the
 10 following form:

11
 12 Permit No..... Tax Folio No.....

13 NOTICE OF COMMENCEMENT

14 State of....

15 County of....

16

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17 The undersigned hereby gives notice that improvement will be
18 made to certain real property, and in accordance with Chapter
19 713, Florida Statutes, the following information is provided in
20 this Notice of Commencement.

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

23 2. General description of improvement:.....

24 3.a. Owner: ...name and address....

25 b. Owner's phone number:.... ~~Owner information or Lessee~~
26 ~~information if the Lessee contracted for the improvement:~~

27 ~~a. Name and address:.....~~

28 ~~c.b.~~ Interest in property:.....

29 ~~d.e.~~ Name and address of fee simple titleholder (if
30 different from Owner listed above):.....

31 4.a. Lessee, if the lessee contracted for the improvement:
32 ...(name and address)....

33 b. Lessee's phone number:..... ~~a.~~

34 5.a. Contractor: ...(name and address)....

35 b. Contractor's phone number:.....

36 ~~6.5.~~ Surety (if applicable, a copy of the payment bond is
37 attached):

38 a. Name and address:.....

39 b. Phone number:.....

40 c. Amount of bond: \$.....

41 7.a.6.a. Lender: ...(name and address)....

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42 b. Lender's phone number:.....

43 ~~8.7.~~ Persons within the State of Florida designated by
44 Owner upon whom notices or other documents may be served as
45 provided by Section 713.13(1)(a)8. ~~713.13(1)(a)7.~~, Florida
46 Statutes:

47 a. Name and address:.....

48 b. Phone numbers of designated persons:.....

49 ~~9.a.8.a.~~ In addition to himself or herself, Owner
50 designates of to receive a copy of the
51 Lienor's Notice as provided in Section 713.13(1)(b), Florida
52 Statutes.

53 b. Phone number of person or entity designated by
54 owner:.....

55 ~~10.9.~~ Expiration date of notice of commencement (the
56 expiration date will be 1 year after ~~from~~ the date of recording
57 unless a different date is specified).....

58
59 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE
60 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER
61 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA
62 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS
63 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
64 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU
65 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN
66 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF

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67 COMMENCEMENT.

68

69 ... (Signature of Owner or Lessee, or Owner's or Lessee's
70 Authorized Officer/Director/Partner/Manager)...

71

72 ... (Signatory's Title/Office)...

73

74 The foregoing instrument was acknowledged before me by means of
75 physical presence or acknowledged before me by means of
76 online notarization, this day of, ... (year) ..., by
77 ... (name of person) ... as ... (type of authority, . . . e.g.
78 officer, trustee, attorney in fact) ... for ... (name of party on
79 behalf of whom instrument was executed)

80

81 ... (Signature of Notary Public - State of Florida)...

82

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

84

85 Personally Known OR Produced Identification

86

87 Type of Identification Produced.....

88 Section 7. Subsections (1), (3), and (4) of section

89 713.132, Florida Statutes, are amended to read:

90 713.132 Notice of termination.—

91 (1) An owner may terminate the period of effectiveness of

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92 a notice of commencement by executing, swearing to, and
93 recording a notice of termination that contains:

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

95 (b) The official records' ~~recording office document book~~
96 ~~and page~~ reference numbers and recording date affixed by the
97 recording office on ~~of~~ the recorded notice of commencement;

98 (c) A statement of the date as of which the notice of
99 commencement is terminated, which date may not be earlier than
100 30 days after the notice of termination is recorded;

101 (d) A statement specifying that the notice applies to all
102 the real property subject to the notice of commencement or
103 specifying the portion of such real property to which it
104 applies;

105 (e) A statement that all lienors have been paid in full;
106 and

107 (f) A statement that the owner has, before recording the
108 notice of termination, served a copy of the notice of
109 termination ~~on the contractor and~~ on each lienor who has a
110 direct contract with the owner or who has timely served a notice
111 to owner, and a statement that the owner will serve a copy of
112 the notice of termination on each lienor who timely serves a
113 notice to owner after the notice of termination has been
114 recorded. The owner is not required to serve a copy of the
115 notice of termination on any lienor who has executed a waiver
116 and release of lien upon final payment in accordance with s.

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117 713.20.

118 (3) An owner may ~~not~~ record a notice of termination at any
119 time after ~~except after completion of construction, or after~~
120 ~~construction ceases before completion and~~ all lienors have been
121 paid in full or pro rata in accordance with s. 713.06(4).

122 (4) If an owner or a contractor, by fraud or collusion,
123 knowingly makes any fraudulent statement or affidavit in a
124 notice of termination or any accompanying affidavit, the owner
125 and the contractor, or either of them, ~~as the case may be,~~ is
126 liable to any lienor who suffers damages as a result of the
127 filing of the fraudulent notice of termination,~~†~~ and any such
128 lienor has a right of action for damages ~~occasioned thereby.~~

129 (5)~~(4)~~ A notice of termination must be served before
130 recording on each lienor who has a direct contract with the
131 owner and on each lienor who has timely and properly served a
132 notice to owner in accordance with this part before the
133 recording of the notice of termination. A notice of termination
134 must be recorded in the official records of the county in which
135 the improvement is located. If properly served before recording
136 in accordance with this subsection, the notice of termination
137 terminates the period of effectiveness of the notice of
138 commencement 30 days after the notice of termination is recorded
139 in the official records ~~is effective to terminate the notice of~~
140 ~~commencement at the later of 30 days after recording of the~~
141 ~~notice of termination or a later~~ the date stated in the notice

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142 of termination as the date on which the notice of commencement
143 is terminated. However, if a lienor who began work under the
144 notice of commencement before its termination lacks a direct
145 contract with the owner and timely serves his or her notice to
146 owner after the notice of termination has been recorded, the
147 owner must serve a copy of the notice of termination upon such
148 lienor, and the termination of the notice of commencement as to
149 that lienor is effective 30 days after service of the notice of
150 termination ~~if the notice of termination has been served~~
151 ~~pursuant to paragraph (1) (f) on the contractor and on each~~
152 ~~lienor who has a direct contract with the owner or who has~~
153 ~~served a notice to owner.~~

154 Section 8. Section 713.18, Florida Statutes, is amended to
155 read:

156 713.18 Manner of serving documents ~~notices and other~~
157 ~~instruments.~~

158 (1) Unless otherwise specifically provided by law, service
159 of any document ~~notices, claims of lien, affidavits,~~
160 ~~assignments, and other instruments~~ permitted or required under
161 this part, s. 255.05, or s. 337.18, or copies thereof when so
162 permitted or required, ~~unless otherwise specifically provided in~~
163 ~~this part,~~ must be made by one of the following methods:

164 (a) By hand ~~actual~~ delivery to the person to be served; if
165 a partnership, to one of the partners; if a corporation, to an
166 officer, director, managing agent, or business agent; or, if a

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167 limited liability company, to a member or manager.

168 (b) By common carrier delivery service or by registered,
169 Global Express Guaranteed, or certified mail to the person to be
170 served, with postage or shipping paid by the sender and with
171 evidence of delivery, which may be in an electronic format.

172 (c) By posting on the site of the improvement if service
173 as provided by paragraph (a) or paragraph (b) cannot be
174 accomplished.

175 (2) Notwithstanding subsection (1), service of a notice to
176 owner or a preliminary notice to contractor under this part, s.
177 255.05, or s. 337.18, ~~or s. 713.23~~ is effective as of the date
178 of mailing and the requirements for service under this section
179 have been satisfied if:

180 (a) The notice is mailed by registered, Global Express
181 Guaranteed, or certified mail, with postage prepaid, to the
182 person to be served and addressed as prescribed ~~at any of the~~
183 ~~addresses set forth~~ in subsection (3);

184 (b) The notice is mailed within 40 days after the date the
185 lienor first furnishes labor, services, or materials; and

186 (c)1. The person who served the notice maintains a
187 registered or certified mail log that shows the registered or
188 certified mail number issued by the United States Postal
189 Service, the name and address of the person served, and the date
190 stamp of the United States Postal Service confirming the date of
191 mailing; or

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192 2. The person who served the notice maintains ~~electronic~~
193 tracking records approved or generated by the United States
194 Postal Service containing the postal tracking number, ~~the name~~
195 ~~and address of the person served,~~ and verification of the date
196 of receipt by the United States Postal Service.

197 (3) (a) Notwithstanding subsection (1), service of a
198 document under an instrument pursuant to this section is
199 effective on the date of mailing or shipping, and the
200 requirements for service under this section have been satisfied,
201 ~~the instrument~~ if the document ~~it~~:

202 1. Is sent to the last address shown in the notice of
203 commencement or any amendment thereto or, in the absence of a
204 properly indexed notice of commencement that contains the
205 information specified in s. 713.13(1) (b), ~~notice of~~
206 ~~commencement,~~ ~~to the last address shown in the building permit~~
207 ~~application,~~ ~~or~~ to the last known

208 -----
209

210 **T I T L E A M E N D M E N T**

211 Remove lines 20-22 and insert:
212 notice of commencement;