



# Florida Construction Lien Law<sup>1</sup>

Florida's Construction Lien Law is very complicated and detailed, and it contains many requirements and time deadlines. Anyone involved in construction is urged to learn about this law in enough detail to protect his or her interests. Failure to understand the steps that must be taken to ensure compliance with this law, protect one's ability to be paid, or avoid liability can result in substantial financial loss or licensure disciplinary action. This law is chapter 713, part I, Florida Statutes, and may be located at [www.flsenate.gov/statutes](http://www.flsenate.gov/statutes) on the Internet.

The following is a general description of major components of the Construction Lien Law and some of the documents associated with it. This description is *not* comprehensive and is *not* a substitute for legal advice. It is strongly recommended that you consult your attorney to make sure that your contracts comply with this law and your business practices allow you to successfully use this law to ensure payment.

The Construction Lien Law applies to construction projects valued at \$2,500 or more. The law requires, for residential projects, that any direct contract between an owner and a contractor must include the specified notice found in section 713.015, Florida Statutes.

The Construction Lien Law imposes certain notice requirements (beginning with the "notice of commencement"—see section 713.13, Florida Statutes) on the property owner and

contractor. The main purpose of this notice is to let everyone know particular information about the construction project. This notice is to be recorded with the clerk of the circuit court for the county where the property is located with a copy posted at the jobsite and filed with the appropriate building department. Failure to file with the building department will prohibit the building department from performing the first inspection for this project.

Those who are allowed to file a claim of lien (called a "lienor") under the Construction Lien Law include contractors, subcontractors, sub-subcontractors, laborers, materialmen (those who supply materials), architects, landscape architects, interior designers, engineers, and surveyors and mappers. Please see sections 713.01, 713.02, and 713.03, Florida Statutes, for more details.

In order to be able to file a valid lien, a person or entity must comply with the specific requirements of the Construction Lien Law for that category of lienor. Failure to comply with these requirements may relieve the property owner from having to make sure that person or entity is ultimately paid, but reliance on a claim of lien (rather than current invoicing, etc.) is not recommended as legal action is usually required (with the potential for uncertain results).

Initially, a subcontractor, sub-subcontractor, or a materialman must serve a "notice to owner"

<sup>1</sup>*DISCLAIMER – This piece is intended to give the reader only general factual information current at the time of publication. This piece is **not** a substitute for professional advice and should not be used for guidance or decisions related to a specific design or construction project. This piece is not intended to reflect the opinion of any of the entities, agencies or organizations identified in the materials and, if any opinions appear, are those of the individual author and should not be relied upon in any event. Applicable to 2004 Florida Building Code.*

on the property owner and the contractor (and possibly more persons—see section 713.06, Florida Statutes) within a specified time. This notice must contain specified information found in section 713.06(2)(c), Florida Statutes. Please see section 713.06, Florida Statutes, for more precise information for this and related requirements.

While there are a number of steps and time-sensitive requirements throughout the process, the ultimate step under the Construction Lien Law is the filing of a lien against the property. It is important to note that the sooner a valid lien is filed, the priority for that lien should be higher than those filed later, and this can be important if funds available to pay are limited.

### **Cautions:**

- The requirements and benefits of the Construction Lien Law warrant specific attention and understanding. In addition to specific forms and time requirements, this law also requires very specific methods of notification. Failure to precisely comply with any of these steps can invalidate a lien.
- Filing a fraudulent lien or deliberately misstating certain information can result in severe penalties, including criminal penalties. See sections 713.31 and 713.345, Florida Statutes.
- Attorney fees will be awarded to the prevailing party in a legal action to enforce a lien or claim against a bond—this needs to be considered before filing a lawsuit. See section 713.29, Florida Statutes.
- Any person or entity entitled to file a lien should never provide anyone with a receipt or release of lien before payment is actually received unless that person or entity intends to give up his or her rights to file a claim of lien.
- A lien filed by an unlicensed contractor, subcontractor, or sub-subcontractor is not

valid. See section 713.02(7), Florida Statutes.

### **Resources:**

The Florida Bar: 850-561-5600 / [www.flabar.org](http://www.flabar.org)

Your local bar association (listing generally found in the business section under your city or county name in your local telephone book)

### **Don't know where to go for an answer to a specific question?**

Contact: Building A Safer Florida, Inc. 1-850-222-2772 or [www.buildingasaferflorida.org](http://www.buildingasaferflorida.org)

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