

## House Bill No. 1443

An act relating to liens; amending s. 679.705, F.S.; extending the effective date of a financing statement filed under previous law; amending s. 713.135, F.S.; revising certain notice of commencement and applicability of lien requirements for certain authorities issuing building permits; prohibiting private providers performing inspection services from performing or approving certain inspections under certain circumstances; increasing a threshold amount for certain application requirement exemptions; prohibiting issuing authorities from requiring recordation of a notice of commencement for certain purposes; authorizing fees for furnishing copies of certain statements; authorizing authorities issuing building permits to accept permit applications electronically; requiring an electronic submission statement on building permit applications; requiring provision of Internet access; amending s. 713.18, F.S.; providing for electronic evidence of delivery of notices required by the Construction Lien Law; amending s. 713.35, F.S.; revising provisions relating to the making or furnishing of false statements on certain construction documents; providing penalties; providing effective dates.

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

Section 1. Effective upon this act becoming a law, subsection (3) of section 679.705, Florida Statutes, is amended to read:

679.705 Effectiveness of action taken before effective date.—

(3) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in s. 679.103, Florida Statutes 2000. However, except as otherwise provided in subsections (4) and (5) and s. 679.706, the financing statement ceases to be effective at the earlier of:

(a) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(b) December 31 ~~June 30~~, 2006.

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

713.135 Notice of commencement and applicability of lien.—

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

(b) Provide the applicant and the owner of the real property upon which improvements are to be constructed with a printed statement stating that

the right, title, and interest of the person who has contracted for the improvement may be subject to attachment under the Construction Lien Law. The Department of Business and Professional Regulation shall furnish, for distribution, the statement described in this paragraph, and the statement must be a summary of the Construction Lien Law and must include an explanation of the provisions of the Construction Lien Law relating to the recording, and the posting of copies, of notices of commencement and a statement encouraging the owner to record a notice of commencement and post a copy of the notice of commencement in accordance with s. 713.13. The statement must also contain an explanation of the owner's rights if a lienor fails to furnish the owner with a notice as provided in s. 713.06(2) and an explanation of the owner's rights as provided in s. 713.22. The authority that issues the building permit must obtain from the Department of Business and Professional Regulation the statement required by this paragraph and must mail, deliver by electronic mail or other electronic format or facsimile, or personally deliver that statement to the owner or, in a case in which the owner is required to personally appear to obtain the permit, provide that statement to any owner making improvements to real property consisting of a single or multiple family dwelling up to and including four units. However, the failure by the authorities to provide the summary does not subject the issuing authority to liability.

(d) Furnish to the applicant two or more copies of a form of notice of commencement conforming with s. 713.13. If the direct contract is greater than \$2,500, the applicant shall file with the issuing authority prior to the first inspection either a certified copy of the recorded notice of commencement or a notarized statement that the notice of commencement has been filed for recording, along with a copy thereof. In the absence of the filing of a certified copy of the recorded notice of commencement, the issuing authority or a private provider performing inspection services may shall not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, or any other means such certified copy with the issuing authority. The certified copy of the notice of commencement must contain the name and address of the owner, the name and address of the contractor, and the location or address of the property being improved. The issuing authority shall verify that the name and address of the owner, the name of the contractor, and the location or address of the property being improved which is contained in the certified copy of the notice of commencement is consistent with the information in the building permit application. The issuing authority shall provide the recording information on the certified copy of the recorded notice of commencement to any person upon request. This subsection does not require the recording of a notice of commencement prior to the issuance of a building permit. If a local government requires a separate permit or inspection for installation of temporary electrical service or other temporary utility service, land clearing, or other preliminary site work, such permits may be issued and such inspections may be conducted without providing the issuing authority with a certified copy of a recorded notice of commencement or a notarized statement regarding a recorded notice of commencement. This subsection does not apply to a direct contract to repair or replace an existing heating or air-conditioning system in an amount less than \$7,500 ~~\$5,000~~.

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

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

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

- Tax Folio No.....
- BUILDING PERMIT APPLICATION**
- Owner's Name
- Owner's Address
- Fee Simple Titleholder's Name (If other than owner)
- Fee Simple Titleholder's Address (If other than owner)
- City
- State..... Zip.....
- Contractor's Name
- Contractor's Address
- City
- State..... Zip.....
- Job Name
- Job Address
- City..... County.....
- Legal Description
- Bonding Company
- Bonding Company Address
- City..... State.....
- Architect/Engineer's Name
- Architect/Engineer's Address
- Mortgage Lender's Name
- Mortgage Lender's Address

Application is hereby made to obtain a permit to do the work and installations as indicated. I certify that no work or installation has commenced prior to the issuance of a permit and that all work will be performed to meet the standards of all laws regulating construction in this jurisdiction. I understand that a separate permit must be secured for ELECTRICAL WORK,

PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS, TANKS, and AIR CONDITIONERS, etc.

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

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

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

...(Signature of Owner or Agent)...

...(including 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.....

...(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 in an electronic format, as prescribed by the authority. Building permit applications submitted to the authority electronically must contain the following additional statement in lieu of the requirement in paragraph (a) that a signed, sworn, and notarized signature of the owner or agent and the contractor be part of the owner's affidavit:

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

(c) An authority responsible for issuing building permit applications which accepts building permit applications in an electronic format shall provide public Internet access to the electronic building permit applications in a searchable format.

Section 3. Paragraph (b) of subsection (1) of section 713.18, Florida Statutes, is amended to read:

713.18 Manner of serving notices and other instruments.—

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

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

1. If a notice to owner, a notice to contractor under s. 713.23, or a preliminary notice under s. 255.05 is mailed by registered or certified mail with postage prepaid to the person to be served at any of the addresses set forth in subparagraph 2. within 40 days after the date the lienor first furnishes labor, services, or materials, service of that notice is effective as of the date of mailing if the person who served the notice maintains a registered or certified mail log that shows the registered or certified mail number issued by the United States Postal Service, the name and address of the person served, and the date stamp of the United States Postal Service confirming the date of mailing or if the person who served the notice maintains electronic tracking records generated through use of the United States Postal Service Confirm service or a similar service containing the postal tracking number, the name and address of the person served, and verification of the date of receipt by the United States Postal Service.

2. If an instrument served pursuant to this section to the last address shown in the notice of commencement or any amendment thereto or, in the absence of a notice of commencement, to the last address shown in the building permit application, or to the last known address of the person to be served, is not received, but is returned as being “refused,” “moved, not forwardable,” or “unclaimed,” or is otherwise not delivered or deliverable

through no fault of the person serving the item, then service is effective on the date the notice was sent.

Section 4. Section 713.35, Florida Statutes, is amended to read:

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

Section 5. Except as otherwise expressly provided in this act, this act shall take effect October 1, 2006.

Approved by the Governor June 12, 2006.

Filed in Office Secretary of State June 12, 2006.