

NOTICE OF COMMENCEMENT

Permit No. _____

Tax Folio No. _____

THE UNDERSIGNED hereby gives notice that improvement will be made to certain real property, and in accordance with Chapter 713, Florida Statutes, the following information is provided in this NOTICE OF COMMENCEMENT.

1. Description of property (legal description of property): _____

a) Street (job) Address: _____

2. General description of improvement(s): _____

3. Owner or Lessee information (Lessee as owner only if contracted for improvements)

a. Name and address: _____

b. Interest in property: _____

c. Name and address of fee simple titleholder (if other than owner): _____

4. Contractor Information

a. Name and address: _____

b. Phone number: _____ Fax No. (Opt.) _____

5. Surety Information

a. Name and address: _____

b. Amount of bond \$ _____

c. Phone number: _____ Fax No. (Opt.) _____

6. Lender

a. Name and address: _____

b. Phone number: _____

7. Persons within the State of Florida designated by Owner upon who notices or other documents may be served as provided by Section 713.13(l)(a)7., Florida Statutes:

a. Name and address: _____

b. Phone number: _____

8. In addition to himself, Owner designates the following person(s) to receive a copy of the Lienor's Notice as provided in Section 713.13(l)(b), Florida Statutes:

a. Name and address: _____

b. Phone number: _____

Expiration date of notice of commencement (the expiration date is 1 year from the date of recording unless a different date is specified) _____.

WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER PAYMENTS UNDER CHAPTER 713, PART 1, SECTION 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT.

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

Signatory's Title/Officer

The foregoing instrument was acknowledged before me by means of physical presence or online notarization,

this ____ day of _____ 20 _____, by _____,

who is personally known to me () or has provided the following identification

_____. Expiration Date: _____ and who did/did not take an oath.

Signature of Notary
Public - State of Florida

Print, Type, or Stamp
Commissioned Name of Notary Public

2007 Construction Lien and Bond Changes

H B 1285 by Altman

Effective Date: July 1, 2007

By Deborah Lawson & David Ramba

For the NACM Improved Construction Practices Committee of Florida

HB 1285 began the 2007 Legislative Session as the Florida Bar Construction Law Committee's legislation to clean up miscellaneous provisions of the lien and bond laws. It was a consensus product that had been worked on for several years prior to being introduced as a bill. It was amended during session to include additional provisions advocated by the industry and consumer advocates.

It is important to note that the bill becomes effective on July 1, 2007, if acted upon favorably by the Governor. The consumer advocate provisions in the bill made modifications to several statutory forms, marked below with an asterisk and attached. It will be critical to get these changes out to the industry quickly so that they can remain compliant with the law.

Specific changes include the following:

1. Clarifies that the bond provisions of Chapter 255.05 apply to all public construction projects, even when the contract is with a private entity.
2. Clarifies that a notice to contractor is a "written" notice.
3. Creates a new definition for "final furnishing" and clarifies that such date is not measured by the issuance of a certificate of occupancy or certificate of final completion and does not include the furnishing of corrective work or materials.
4. Amends the definition of "furnish materials" with respect to rental equipment, providing that delivery of rental equipment to the site of improvement is prima facie evidence of the period of actual use from the date of delivery through the time equipment is last available for use or two business days after the lessor receives written notice to pick up the equipment.
5. Requires that notices, demands and requests required under the lien law must be in writing (except for a demand or designation for the application of money to a materials account under s. 713.14).
- *6. Amends the mandatory contract provisions requirements of s. 713.015. The changes exempt direct contracts of \$2,500 or less from the requirements, reduce the type size requirement from 14 point to 12 point, and allow the contract warning to be on the front page of the contract or, if the contract is oral or implied, the notice shall be on a separate page which references the contract and is signed by the owner and dated. The language of the mandatory contract provision has also been modified. The new form is attached.
7. Provides that the failure to give the mandatory contract warning does not bar the enforcement of a lien against a person who has not been adversely affected.
8. Clarifies that an owner and a contractor must agree to a contract that requires the contractor to furnish a payment bond.
9. Clarifies that the payment and recommencement procedures contained in s. 713.07(4) apply when construction ceases or when a direct contract is terminated.
10. Provides that a claim of lien may be prepared by the lienor or the lienor's employee or attorney and shall be signed and sworn to or affirmed by the lienor or the lienor's agent acquainted with the facts stated therein. Also makes other minor technical changes to s. 713.08.
- *11. Amends the notice of commencement form (**see attached**) to add a warning to the owner and to specify that the owner must sign the notice of commencement. Replaces the former notary jurat with an acknowledgment.
12. Provides that a notice of commencement can be amended during the effective period to extend the effective date, change erroneous information or add information.
13. Provides that a new notice of commencement or a notice of recommencement must be executed and recorded in order to change contractors.
14. Provides that an amended notice of commencement must identify the official record book and page of the original notice of commencement and must be served by the owner upon the contractor and each lienor who has given notice before or within 30 days after the date the amended notice is recorded.
- *15. Reduces the type from 18 to 14 point for the owner warning on the building permit card and amends the warning language. **See attached.**
- *16. Amends the owner warnings on the statutory building permit application form. **See attached.**
17. Makes technical and clarifying changes regarding the written demand that a lienor who has recorded a claim of lien can make upon the owner under s. 713.16(5)(a) for information relating to the direct contract and payments that have been made.
18. Makes technical formatting changes to the service provisions of s. 713.18 and provides for actual delivery upon a limited liability company to be made by delivery to a member or manager.
19. Clarifies that a lien expires one year after recording, or one year after the recording of an amended claim of lien that shows a later date of final furnishing.
20. Clarifies provisions for prevailing party attorney's fees in cases of fraud or collusion.
21. Repeals Section 713.36 which contains obsolete effective date provisions for 1963 lien law changes.