



Florida Construction Lien Law: Consumer Information¹

Florida's Construction Lien Law is very complicated and detailed, and it can impose a substantial financial hardship on a property owner who does not know or understand the steps that must be taken to avoid liability resulting from application of this law. A property owner should consider consulting an attorney before entering into a contract or starting a construction project to make sure he or she understands the obligations created by the Construction Lien Law. This law is chapter 713, part I, Florida Statutes, and may be located at www.flsenate.gov/statutes on the Internet.

The major impact of this law is that if a property owner contracts for construction work valued at \$2,500 or more and pays the contractor, but the contractor fails to pay any subcontractor, material supplier, and certain others, Florida's Construction Lien Law allows those who have not been paid to file a claim of lien against the property. If a claim of lien is filed, and it is found to be valid (or not challenged), the person or entity filing the lien may force the sale of the property to satisfy payment of the lien. In addition to the possibility of a forced sale, the Construction Lien Law may legally require you to pay twice for work done on your property.

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.

Before construction begins, the property owner is required to file a "notice of commencement" (a specific form required under the law). The local

building permit issuing authority is required to provide this form. Once complete, this document must be recorded with the clerk of the circuit court for the county where the property is located and a certified copy (or a plain copy with a specified affidavit) of it must be posted at the property. The building department must also be properly notified, and unless this is done, the building department is prohibited from performing the first inspection of work. Failure to record this notice or completing a notice with incorrect information can contribute to causing the property owner to pay twice for work or materials.

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.

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 pay twice, but this determination generally needs to be made by a judge (potentially costing the property owner attorney fees that could total far more than the amount associated with a lien).

As payment is called for on a construction project, the property owner needs to make sure to obtain a "release of lien" from each subcontractor, supplier, and any other person or entity working on the

¹**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.]

project before making payment covering the particular work or portion of work. This release of lien is a written statement waiving any lien rights for the work or materials specified in the release of lien.

The ultimate responsibility for ensuring that all persons or entities are paid rests with the property owner, and every step taken to ensure this happens is worthwhile. Those steps include, but are not limited to, consulting an attorney, verifying the licensure status (and any disciplinary action) for any contractor or subcontractor, verifying corporate status for any business to be involved, and checking court records for any judgments or other involvement in legal actions.

Cautions:

- A property owner should make sure to read and understand all provisions, especially those relating to payment, in a construction contract. Engaging the services of a qualified attorney may be necessary to ensure maximum protection.
- A property owner should not rely on a lender or contractor to protect that property owner's financial interests—this is not the role of a lender or a contractor.
- If a claim of lien or a lien is filed, the property owner should take steps to address this immediately.
- The consequences of ignoring the requirements of Florida's Construction Lien Law are usually severe, and every property owner is urged to take this law very seriously.
- The property owner should ensure that his or her contractor and any subcontractors are properly licensed and insured for the work to be performed. Failure to ensure this could prevent certain valuable remedies, invalidate homeowner's insurance coverage, expose the property owner to liability for injury or harm, and subject the property owner to criminal penalties.

Government Agencies/Offices:

Florida Department of Business and Professional Regulation, Construction Industry Licensing Board: 850-487-1395 / www.myflorida.com/dbpr

Florida Department of Business and Professional Regulation, Office of Unlicensed Activity: 850-487-1395 / www.myflorida.com/dbpr

Florida Department of Financial Services, Division of Workers' Compensation: 850-413-1601 / www.fldfs.com/WC

Florida Department of Financial Services, Division of Consumer Services: 800-342-2762 / www.fldfs.com/consumers

Florida Department of State, Division of Corporations: 800-755-5111 / www.sunbiz.org

Your county or municipal building department (please see the government section of your telephone book—look under “building,” “plans,” “inspections,” or “zoning.”)

Your local court records office (please see the government section of your telephone book—look under “courts” or “clerk of court.”)

Other Resources:

The Florida Bar: 850-561-5600 / 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

This document was developed jointly by Building a Safer Florida and the University of Florida's Program for Resource Efficient Communities (www.energy.ufl.edu).

April 2005 R