

# **BOARD OF COUNTY COMMISSIONERS**

1801 27<sup>th</sup> Street, Vero Beach, Florida 32960



## **CONSTRUCTION LIEN LAW FOR OWNERS**

**NOTE: IF YOU SIGNED AS THE OWNER'S AGENT YOU ARE RESPONSIBLE FOR DELIVERING THIS INFORMATION SHEET TO THE OWNER OF THE PROPERTY**

### **WARNING TO OWNER**

Florida's Construction Lien Law (Chapter 713, Part One, Florida Statutes) requires the recording with the Clerk of the Courts a Notice of Commencement for real property improvements greater than \$2,500. However, it does not apply to the repair or replacement of an existing heating or air conditioning system less than \$7,500 in value. This notice must be signed by you, the property owner.

Under Florida law, those who work on your property or provide materials and are not paid, have a right to enforce their claim for payment against your property. This claim is known as a construction lien.

### **YOU MUST FILE A NOTICE OF COMMENCEMENT**

For your protection under the Construction Lien Law and to avoid the possibility of paying twice for improvements to real property, you must record a Notice of Commencement in the Clerk of the Court's Office. You also must provide a certified copy of the recorded document at the construction site. The Notice of Commencement must be signed by you, the owner contracting the improvements, and not by your agent.

The Notice of Commencement form, provided with this information packet, must be completed and recorded within 90 days before starting the work.

A copy of the payment bond, if any is required by you and purchased by the contractor, must be attached as part of the Notice of Commencement when recorded.

If improvements described in the Notice of Commencement are not actually started within 90 days after the recording of the Notice, a new Notice of Commencement must be recorded.

You lose your protection under the Construction Lien Law if the payments are made to the contractor after the expiration of the Notice of Commencement. The Notice is good for one year after the recording date or up to the date specified under item nine of the form.

Florida law requires the Building Department to be a second source of information concerning the improvements made on real property.

### **YOU MUST POST THE NOTICE OF COMMENCEMENT AT THE JOB SITE**

By the law, the Building Department is required to verify at the first inspection, after the building permit is issued, that a certified copy of the recorded Notice of Commencement, with attached bonds if any, is posted at the construction site. Failure to show the inspector a certified copy of the recorded Notice will result in a disapproved inspection, (Florida Statute 713.135(1)(d)).

### **NOTICE TO OWNER FROM SUBCONTRACTORS AND SUPPLIERS**

You may receive a Notice to Owner from subcontractors and material suppliers. This notice advises you that the sender is providing services or materials. Subcontractors and suppliers must serve a Notice to Owner within 45 days of commencing work to preserve their ability to lien your property.

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If your address changes from that given in the Notice of Commencement, you should record a corrected Notice reflecting your current address. This is done to help ensure you will receive all notices.

## **RELEASE FROM LIEN FROM CONTRACTOR**

Prior to paying the contractor, you need to receive a Release of Lien and Affidavit to the extent of payment from the general contractor. The Release of Lien and Affidavit shall state either that all the subcontractors and suppliers have all been paid or list those unpaid and the amount owed. The contractor is required to list on the Release of Lien and Affidavit any subcontractor or supplier that has not been paid. That amount may be withheld from the contractor's pay and paid directly to the subcontractor or suppliers after 10 days written notice to the contractor.

If the balance due to the contractor is not sufficient to pay in full all subcontractors and suppliers listed on the contractor's affidavit, you may wish to consult an attorney.

The general contractor shall furnish a final Release of Lien and Affidavit to the owner indicating all subcontractors and suppliers have been paid at the time he requests final payment. You can rely on the affidavit in making final payment to the general contractor. If you make final payment to the general contractor without obtaining the affidavit, your property can be liened for non-payment if the general contractor fails to pay the subcontractors or suppliers. You should always obtain a Release of Lien and Affidavit from the contractor to the extent of any payments being made.

## **RELY ON YOUR LENDER FOR COMPLIANCE WITH CONSTRUCTION LIEN LAW**

If you have a lender, you may rely on the lender to handle the recording of the Notice of Commencement. Learn more about the Construction Lien Law by contacting an attorney, your lender, or the Florida Department of Agricultural and Consumer Services, Division of Consumer Services.

**Documents are recorded at the Clerk of the Courts, Indian River County Courthouse, 2000 16<sup>th</sup> Avenue, Vero Beach, Florida 32960**

Please make sure the original Notice is signed and notarized.

## **CONTRACTOR LICENSING REQUIREMENTS:**

It is the Qualifier's responsibility:

- to keep all business, licensing, and requirements current with Indian River County
- to provide updated copies for Indian River County files

This includes:

- all insurance certificates
- any change of address or telephone information
- state license
- qualifying business license
- business tax receipt (or business tax receipt from home county)
- driver's license
- liability insures;
  - a. all certificates of insurance must have Indian River County as the certificate holder @ 1801 27<sup>th</sup> Street, Vero Beach, FL 32960
  - b. must have the licensee's name (qualifier)
  - c. must have the company name
  - d. must have the minimum liability insurance of \$500,000
  - e. must have worker's compensation insurance or exemption

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## **HOMEOWNERS BEWARE OF UNLICENSED CONTRACTORS**

If you are considering remodeling your home, adding on or making any kind of improvement, be aware of the early warning signs of an unlicensed contractor before you hire someone.

The early warning signs are as follows:

- A large down payment is requested before work begins
- Many requests for money during early phases of construction
- They ask you to obtain the permit. A licensed contractor in good standing will always obtain the permit.
- Terms are not put in writing, the contract is only verbal.
- The contractor doesn't have proof of insurance. Licensed contractors must have general liability insurance and worker's compensation in effect at all times.
- Call the Building Department if you are told that the job does not require a permit or inspections. Almost all projects, except for very minor repairs, require a permit and inspections.
- The work is one only on weekends or after hours. Licensed contractors are full-time professionals.
- Someone, other than the person or company you contracted to do the work obtains the permit.
- Does not have a state or county certification.
- Asks that the check be made payable to his/her name or to cash, rather than a company name
- No Certificate of Competency number on the vehicle, business cards, or advertisement