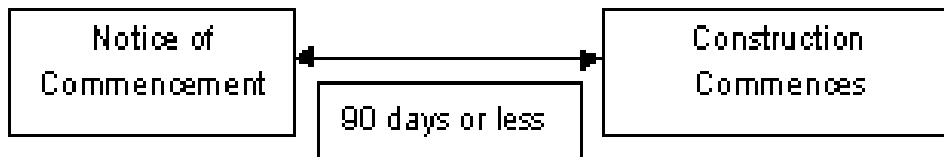


Timing under the Florida Construction Lien Law

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The Florida Construction Lien Law has been called many things, but not simple. There are key time periods, the failure to comply with which, can result in loss of lien rights or other serious consequences. The following is a description of the key time periods in what may be a typical chronological fashion from start of the job until what is all too often the final phase of construction, the lawsuit.

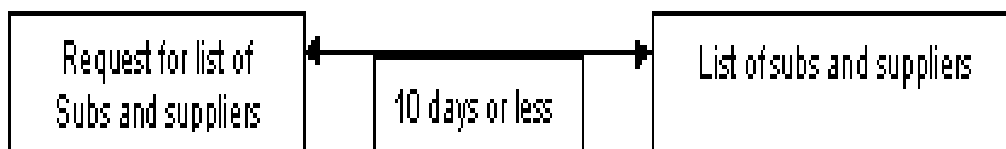
The Notice of Commencement. This is the first document that the lien law creates, and is the duty of the owner to prepare and sign. It is the duty of the lender to record it, if there is a lender, otherwise the owner must record it. It is the duty of the owner to post a certified copy at the site. Pursuant to Florida Statute 713.13, the Notice of Commencement is to be recorded before improvements start, but not sooner than 90 days prior to commencing improvements.



The notice of commencement remains effective for a period of one year, unless

1. It is otherwise stated in the notice of commencement, or
2. An amended notice of commencement is recorded extending the time, or
3. Unless the time is shortened by a termination of notice of commencement.

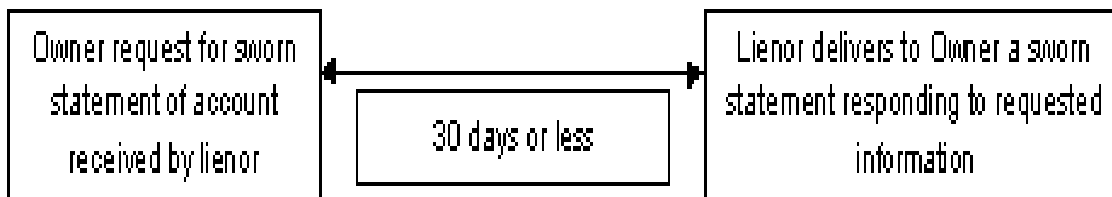
Request for copy of list of subs and suppliers. An owner has the right at any time to request in writing a list of all subcontractors and suppliers who have a contract with the contractor to furnish materials or perform any services. The contractor must respond to the request by furnishing the list within ten (10) days of receipt of the request.



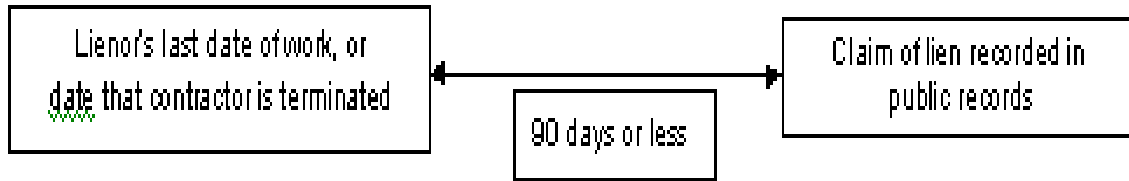
Notice to Owner. A lienor not in direct privity of contract with the owner, except a laborer, a professional lienor, or a subdivision improver, is required to serve (i.e., deliver pursuant to F.S. 713.18) the owner with a notice to owner at any time before the expiration of 45 days from the lienor's first work or delivery of materials at the site. If the lienor has the notice to owner stamped in with a log at the Post Office, this must be done within 40 days of the commencement of work (and delivery is then complete upon mailing). If the lienor is furnishing specially fabricated materials not readily useable elsewhere, the time begins to run as of the time that the specially fabricated materials are begun to be made, not including the shop drawings. This requirement is a prerequisite to recording a valid lien for non-privity persons required to serve the notice.



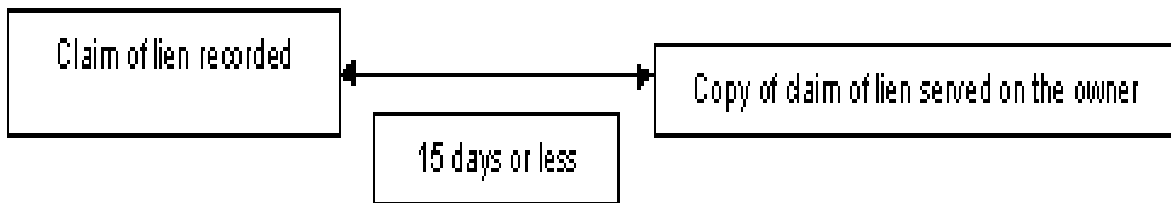
Request for Sworn Statement of Account by Owner. The owner may, at any time before the lienor files suit to enforce its lien, request the lienor to furnish a written statement of account listing specific information. This may be done periodically by the owner when the owner is assessing the amount to pay the contractor, along with the potential exposure for liens from persons working under the contractor. The request must be written and in the form specified in the statute. The request must be served on the lienor at the address of the lienor, and to the attention of any person designated in a notice to owner to receive such a request. A lienor must furnish the sworn written statement responding to the information requested not later than 30 days from the date the lienor received the demand. Failure to respond, or furnishing a false or inaccurate response, may have adverse consequences on the lien rights of the lienor.



Recording of Claim of Lien. The claim of lien must be recorded in the county where the improved property is located not later than 90 days from the lienor's last work, or 90 days from the termination of the contractor under whom the lienor is working, whichever is sooner. Where the date is counted from the lienor's last work, the last date that work was performed as required under the contract, which work is not correction of the lienor's own mistakes, is the date that counts. Begin counting on the next day. If the 90th day falls on a day when the clerk's office is not open, the time continues until the next day that the clerk's office is open.



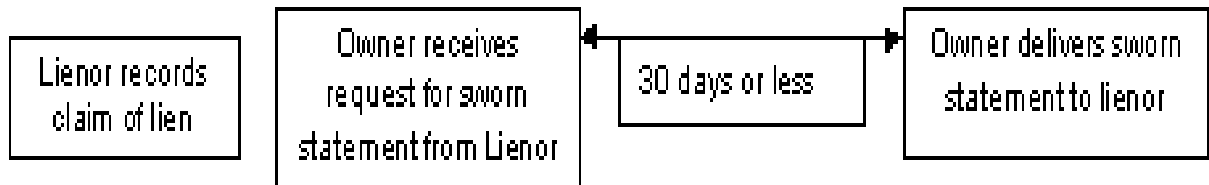
Serve copy of Claim of Lien on Owner. The lienor is required to serve (i.e., deliver pursuant to Florida Statute 713.18) a copy of the claim of lien within 15 days of recording the lien. The copy need not have the recording data (clerk's file number and official records book and page). The owner has a defense to the extent the owner can show any harm as a consequence of not receiving the copy of the claim of lien within the 15 days.



Contractor to give Owner final contractor's affidavit. As a condition to the owner making, and to the contractor being entitled to receive, final payment, the contractor (only) is required to give to the owner an affidavit reciting that all subs, suppliers, and laborers are paid in full, or if not, then reciting all persons unpaid and the amount unpaid to each. This affidavit should be given at the time that billing is made for final payment, but must be given at least five days before suit is filed to enforce the contractor's lien.



Lienor request to owner for sworn statement. A lienor who has recorded a claim of lien may request in writing a written statement of account from the owner. The written statement is to describe all direct contracts and the dates and amounts of payments so that the lienor may assess whether the owner may have a proper payments defense. If the owner cannot prove that the owner furnished the sworn statement to the lienor within 30 days after receipt of the demand, the owner may not recover attorney fees as the prevailing party in any suit brought by the lienor to enforce the lien.



File suit to enforce lien. A lien remains effective for a period of one year unless:

1. it is satisfied, or
2. a notice of contest of lien is recorded, or
3. a twenty-day summons to show cause is served on the lienor, or
4. suit is filed to enforce the lien by the lienor.

If suit is not filed prior to the one year, or within 60 days of the date that the clerk certifies that a notice of contest of lien was served on the lienor, or within 20 days of the lienor being served with a twenty-day summons to show cause, the lien will expire. A lien cannot be renewed by re-recording. The only way to extend the effect of a lien beyond a year is to file suit to enforce the lien in a court of competent jurisdiction. Then the lien remains effective until the suit is resolved. Counsel should record a notice of lis pendens in connection with the suit to enforce the lien in order to give notice to the world of the pending action and keep the lien effective during the pendency of the action.