

New Amendments to Florida's Construction Lien Law

On June 12, 2023, Governor Ron DeSantis signed Florida House Bill 331 into law. This new bill amends Florida's Construction Lien Law, Chapter 713, Fla. Stats. The new legislative amendments go into effect on October 1, 2023.

The amendments, among other things, expand the definition of "Contractor" to include construction management services, specify new requirements for recording a notice of termination, change the monetary threshold regarding when a Notice of Commencement must be filed in connection with a building permit application, allow arbitrators in a payment bond arbitration to award attorney's fees, and specify the timing of when a notice of non-payment for equipment rental must be served. These new legal changes are specifically addressed below.

Definition of Contractor Expanded

The definition of "Contractor" has been expanded to include "a licensed general contractor or building contractor **who provides construction management services**" or "**program management services.**"¹ (emphasis supplied). Construction management services include coordinating and scheduling a project's preconstruction and construction phases.² Program management services include cost control, schedule control, and coordinating project planning, design, and construction.³

New Notice of Termination Requirements

Before an owner can record a notice of termination, they must now serve a copy of the notice of termination on each lienor that:

1. had a direct contract with the owner and
2. timely and properly served a notice to the owner.⁴

If properly served, a notice of termination will terminate a notice of commencement 30 days after being recorded in the public record or on a later date if specified in the recorded notice of termination.⁵

An owner must serve a lienor who does not have a direct contract with the owner but which timely served a notice to the owner and which began work before the owner recorded their notice of termination.⁶ Such notices of termination take effect 30 days after being served.⁷

Contractual Amount Increased for Required Filing of Notice of Commencement for Building Permit Applications

The minimum direct contract amount for building permit applications which require the filing of a certified copy of the notice of commencement, has been increased from \$2,500 to \$5,000. Accordingly, authorities with jurisdiction to issue building permits must require the filing of a certified copy of a notice of commencement before the first inspection regarding projects for which the direct contract amount is greater than \$5,000.⁸

Arbitrators May Award Attorney's Fees in Payment Bond Claim Arbitrations

Arbitrators may now determine the amount of attorney's fees to be awarded and award attorney's fees in payment bond claim arbitration proceedings.⁹



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Related Practice Areas

- Construction Law

New Requirements for Recorded Satisfactions and Releases of Construction Liens

All recorded satisfactions and releases of construction liens must include:

1. the official record's reference number,
2. the recording date, and
3. the lienor's notarized signature.¹⁰

New Requirements for Notices of Nonpayment Regarding Payment Bond Claims

Under the amended version of the statute, both the contractor and the contractor's surety must be served with a notice of nonpayment.¹¹ Furthermore, for equipment rental specifically, the notice must be served no later than 90 days after the date that the equipment rental was on the project site and available for use.¹²

Increase Regarding Calculation of the Monetary Amount of Lien Transfer Bonds

Under the amended statute, the amount of any bonds for liens transferred to security will now be "an amount equal to the amount demanded in such claim of lien, plus interest thereon at the legal rate for three years, plus **\$5,000** or 25% of the amount demanded⁷ in the claim of lien.¹² The minimum dollar threshold for calculating the amount of any lien transfer bond was increased from \$1,000 to \$5,000 as specified above.¹⁴

¹ See Fla. CS for HB 331, § 3 (2023) (proposed Fla. Stat. § 713.01(8)).

² *Id.*

³ *Id.*

⁴ See Fla. CS for HB 331, § 7 (2023) (proposed Fla. Stat. § 713.132(5)).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ See Fla. CS for HB 331, § 8 (2023) (proposed Fla. Stat. § 713.135(1)(e)).

⁹ See Fla. CS for HB 331, § 1 (2023) (proposed Fla. Stat. § 713.18).

¹⁰ See Fla. CS for HB 331, § 10 (2023) (proposed Fla. Stat. § 713.21(2)).

¹¹ See Fla. CS for HB 331, § 12 (2023) (proposed Fla. Stat. § 713.23(1)(d)).

¹² *Id.*

¹³ See Fla. CS for HB 331, § 13 (2023) (proposed Fla. Stat. § 713.24(1)(b)).

¹⁴ *Id.*
