

By Senator Hutson

6-01113A-16

20161618__

1 A bill to be entitled
2 An act relating to real property; amending s. 153.67,
3 F.S.; requiring a district water or sewer system that
4 imposes a lien to provide an Internet-based procedure
5 for furnishing an estoppel certificate to a property
6 owner; providing criteria for the certificate based on
7 whether foreclosure of a lien has been filed;
8 providing fees; providing for waiver of right to a
9 lien under certain circumstances; amending s. 159.17,
10 F.S.; requiring a municipality that imposes a lien to
11 provide an Internet-based procedure for furnishing an
12 estoppel certificate to a property owner; providing
13 criteria for the certificate based on whether
14 foreclosure of a lien has been filed; providing for
15 waiver of right to a lien under certain circumstances;
16 requiring a governmental entity or quasi-governmental
17 entity that wishes to create a lien against real
18 property pursuant to a non-ad valorem or special
19 assessment to record a notice with certain
20 information; amending s. 553.79, F.S.; requiring an
21 application for a building permit for the
22 construction, alteration, or repair of improvements to
23 be in a specified form; amending s. 713.13, F.S.;
24 revising requirements for the form of a notice of
25 commencement for improving real property; amending s.
26 713.135, F.S.; providing for expiration and renewal of
27 a building permit; providing the application form for
28 renewal; providing an effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:

31
32 Section 1. Section 153.67, Florida Statutes, is amended to

6-01113A-16

20161618__

33 read:

34 153.67 Unpaid fees to constitute lien.-

35 (1) In the event that the fees, rates, or charges for the
36 services and facilities of any district water or sewer system
37 shall not be paid as and when due, any unpaid balance thereof
38 and all interest accruing thereon shall be a lien on any parcel
39 or property affected thereby. Such lien ~~liens~~ shall be superior
40 and paramount to the interest on such parcel or property of any
41 owner, lessee, tenant, mortgagee or other person except the lien
42 of county taxes and shall be on a parity with the lien of any
43 such county taxes. In the event that any such sum ~~service charge~~
44 shall not be paid as and when due and shall be in default for 30
45 ~~thirty~~ days or more, the unpaid balance thereof and all interest
46 accrued thereon, together with attorney ~~attorneys~~ fees and
47 costs, may be recovered by the district in a civil action, and
48 any such lien and accrued interest may be foreclosed or
49 otherwise enforced by the district by action or suit in equity
50 as for the foreclosure of a mortgage on real property.

51 (2) A district water or sewer system that imposes a lien
52 pursuant to this section must provide an Internet-based
53 procedure for furnishing to an owner of real property subject to
54 the lien an estoppel certificate listing the total amount due
55 from the owner of a parcel. Notice of the Internet-based
56 procedure shall be recorded in the official records of the
57 county in which the district is located. Failure to record the
58 notice constitutes a waiver of any lien imposed pursuant to this
59 section. The lien for all amounts due from the property as of
60 the date of delivery shall be the lesser of the actual amount
61 owed or the amount of the lien in the certificate.

6-01113A-16

20161618__

62 (a) If the district has not filed for foreclosure of the
63 lien:

64 1. The certificate must be dated as of the date of
65 delivery.

66 2. The certificate must list all fees, rates, and charges
67 due as of that date.

68 3. The certificate must be furnished within 5 business days
69 after the request.

70 4. The fee for preparation and delivery of the certificate
71 must not exceed \$25.

72 (b) If the district has filed for foreclosure of the lien:

73 1. The certificate must be dated as of the date of
74 delivery.

75 2. The certificate must list all fees, rates, charges,
76 interest, attorney fees, costs, and foreclosure costs due as of
77 that date.

78 3. The certificate must be furnished within 20 days after
79 the request.

80 4. The fee for preparation and delivery of the certificate
81 must not exceed \$250.

82 (c) If a district fails to timely provide the certificate
83 required by this subsection and the property is transferred to a
84 buyer within 30 days after the request, the district waives its
85 right to a lien for sums due before the transfer but may still
86 pursue the sums owed in a civil action against the former parcel
87 owner.

88 Section 2. Section 159.17, Florida Statutes, is amended to
89 read:

90 159.17 Lien of service charges.—

6-01113A-16

20161618__

91 (1) Any municipality issuing revenue bonds hereunder shall
92 have a lien on all lands or premises served by any water system,
93 sewer system, or gas system for all service charges for such
94 facilities until paid, which liens shall be prior to all other
95 liens on such lands or premises except the lien of state,
96 county, and municipal taxes and shall be on a parity with the
97 lien of such state, county, and municipal taxes. Such liens,
98 together with interest, attorney fees, and costs, when
99 delinquent for more than 30 days, may be foreclosed by such
100 municipality in the manner provided by the laws of Florida for
101 the foreclosure of mortgages on real property.

102 (2) A municipality that imposes a lien pursuant to this
103 section must provide an Internet-based procedure for furnishing
104 to an owner of real property subject to the lien an estoppel
105 certificate listing the total amount due from the owner of a
106 parcel. Notice of the Internet-based procedure shall be recorded
107 in the official records of the county in which the municipality
108 is located. Failure to record the notice constitutes a waiver of
109 any lien imposed pursuant to this section. The lien for all
110 amounts due from the property as of the date of delivery shall
111 be the lesser of the actual amount owed or the amount of the
112 lien in the certificate.

113 (a) If the municipality has not filed for foreclosure of
114 the lien:

115 1. The certificate must be dated as of the date of
116 delivery.

117 2. The certificate must list all fees, rates, and charges
118 due as of that date.

119 3. The certificate must be furnished within 5 business days

6-01113A-16

20161618__

120 after the request.

121 4. The fee for preparation and delivery of the certificate
122 must not exceed \$25.

123 (b) If the municipality has filed for foreclosure of the
124 lien:

125 1. The certificate must be dated as of the date of
126 delivery.

127 2. The certificate must list all fees, rates, charges,
128 interest, attorney fees, costs, and foreclosure costs due as of
129 that date.

130 3. The certificate must be furnished within 20 days after
131 the request.

132 4. The fee for preparation and delivery of the certificate
133 must not exceed \$250.

134 (c) If a municipality fails to timely provide the
135 certificate required by this subsection and the property is
136 transferred to a buyer within 30 days after the request, the
137 municipality waives its right to a lien for sums due before the
138 transfer but may still pursue the sums owed in a civil action
139 against the former parcel owner.

140 Section 3. A governmental entity or quasi-governmental
141 entity that desires to create a lien against real property
142 pursuant to a non-ad valorem or special assessment shall record
143 a notice in the official records of the county in which the
144 applicable real property is located. The notice shall contain
145 sufficient information to identify the applicability of the non-
146 ad valorem or special assessment to real property.

147 Section 4. Subsection (1) of section 553.79, Florida
148 Statutes, is amended to read:

6-01113A-16

20161618__

149 553.79 Permits; applications; issuance; inspections.-

150 (1) (a) After the effective date of the Florida Building
151 Code adopted as herein provided, it shall be unlawful for any
152 person, firm, corporation, or governmental entity to construct,
153 erect, alter, modify, repair, or demolish any building within
154 this state without first obtaining a permit therefor from the
155 appropriate enforcing agency or from such persons as may, by
156 appropriate resolution or regulation of the authorized state or
157 local enforcing agency, be delegated authority to issue such
158 permits, upon the payment of such reasonable fees adopted by the
159 enforcing agency. The enforcing agency is empowered to revoke
160 any such permit upon a determination by the agency that the
161 construction, erection, alteration, modification, repair, or
162 demolition of the building for which the permit was issued is in
163 violation of, or not in conformity with, the provisions of the
164 Florida Building Code. Whenever a permit required under this
165 section is denied or revoked because the plan, or the
166 construction, erection, alteration, modification, repair, or
167 demolition of a building, is found by the local enforcing agency
168 to be not in compliance with the Florida Building Code, the
169 local enforcing agency shall identify the specific plan or
170 project features that do not comply with the applicable codes,
171 identify the specific code chapters and sections upon which the
172 finding is based, and provide this information to the permit
173 applicant. Installation, replacement, removal, or metering of
174 any load management control device is exempt from and shall not
175 be subject to the permit process and fees otherwise required by
176 this section.

177 (b) A person, firm, corporation, or governmental entity

6-01113A-16

20161618__

178 that applies for a building permit for the construction of
 179 improvements or for the alteration or repair of improvements on
 180 or to real property shall apply for such permit in the form
 181 required under s. 713.135.

182 Section 5. Paragraph (d) of subsection (1) of section
 183 713.13, Florida Statutes, is amended to read:

184 713.13 Notice of commencement.—

185 (1)

186 (d) A notice of commencement must be in substantially the
 187 following form:

188
 189 Permit No.....

Tax Folio No.....

190 NOTICE OF COMMENCEMENT

191 State of....

192 County of....

193
 194 The undersigned hereby gives notice that improvement will be
 195 made to certain real property, and in accordance with Chapter
 196 713, Florida Statutes, the following information is provided in
 197 this Notice of Commencement.

198 1. Description of property: ...(legal description of the
 199 property, and street address if available)....

200 2. General description of improvement:.....

201 3. Owner information or Lessee information if the Lessee
 202 contracted for the improvement:

203 a. Name and address:.....

204 b. Interest in property:.....

205 c. Name and address of fee simple titleholder (if different
 206 from Owner listed above):.....

6-01113A-16

20161618__

207 4.a. Contractor: ...(name and address)....

208 b. Contractor's phone number:.....

209 5. Surety (if applicable, a copy of the payment bond is

210 attached):

211 a. Name and address:.....

212 b. Phone number:.....

213 c. Amount of bond: \$.....

214 6.a. Lender: ...(name and address)....

215 b. Lender's phone number:.....

216 7. Persons within the State of Florida designated by Owner

217 upon whom notices or other documents may be served as provided

218 by Section 713.13(1)(a)7., Florida Statutes:

219 a. Name and address:.....

220 b. Phone numbers of designated persons:.....

221 8.a. In addition to himself or herself, Owner designates

222 of to receive a copy of the Lienor's

223 Notice as provided in Section 713.13(1)(b), Florida Statutes.

224 b. Phone number of person or entity designated by

225 owner:.....

226 9. Expiration date of notice of commencement (the

227 expiration date will be 1 year from the date of recording unless

228 a different date is specified).....

229 10. Permit number, applicable local enforcement agency, and

230 issuance date of building permit, which shall expire in

231 accordance with Section 713.135(7), Florida Statutes:.....

232

233 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE

234 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER

235 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA

6-01113A-16

20161618__

236 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS
 237 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
 238 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU
 239 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN
 240 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF
 241 COMMENCEMENT.

242

243 ... (Signature of Owner or Lessee, or Owner's or Lessee's
 244 Authorized Officer/Director/Partner/Manager)...

245

246 ... (Signatory's Title/Office)...

247

248 The foregoing instrument was acknowledged before me this
 249 day of, ... (year) ..., by ... (name of person) ... as ... (type
 250 of authority, . . . e.g. officer, trustee, attorney in fact) ...
 251 for ... (name of party on behalf of whom instrument was
 252 executed)

253

254 ... (Signature of Notary Public - State of Florida)...

255

256 ... (Print, Type, or Stamp Commissioned Name of Notary Public)...

257

258 Personally Known OR Produced Identification

259

260 Type of Identification Produced.....

261

262 Section 6. Subsection (7) of section 713.135, Florida
 263 Statutes, is renumbered as subsection (9), and new subsections
 264 (7) and (8) are added to that section, to read:

264

713.135 Notice of commencement and applicability of lien.-

6-01113A-16

20161618__

265 (7) A building permit, including a site-specific building
 266 permit under s. 553.794, shall expire:

267 (a) One year after the date of issue if the permit has not
 268 been renewed pursuant to subsection (8);

269 (b) Six months after the application date if a permit has
 270 not been issued and an extension of time has not been granted;

271 (c) Six months after the date of issue if work:

272 1. Has not been commenced;

273 2. Has been suspended or abandoned for 6 months; or

274 3. Has not had the required inspection within 6 months;

275 (d) On the date of issue of a certificate of completion or
 276 certificate of occupancy; or

277 (e) On the expiration date of a notice of commencement if
 278 the notice of commencement indicates that the expiration date is
 279 less than 1 year after the date of recording.

280 (8) (a) A building permit is deemed automatically renewed if
 281 a permitholder files a notice of renewal before the expiration
 282 date of the permit. Upon renewal, the building permit is subject
 283 to expiration as provided in subsection (7).

284 (b) An owner or an owner's authorized agent, before the
 285 expiration of the permit and before continuing work, shall
 286 record a notice of renewal in the clerk's office and post at the
 287 construction site a certified copy of such notice or a notarized
 288 statement indicating the notice of renewal was filed for
 289 recording. The notice of renewal must be in substantially the
 290 following form:

291
 292 Tax Folio No.....

293 BUILDING PERMIT NOTICE OF RENEWAL

6-01113A-16

20161618__

294 Permit Number:.....
 295 Local Enforcement Agency:.....
 296 Issuance Date of Building Permit:.....
 297 Date of Last Inspection:....

298
 299 Notice is hereby given of the renewal of the building
 300 permit listed above. I certify that all work will be performed
 301 to meet the standard of all laws regulating construction in this
 302 jurisdiction. I understand that a separate notice of renewal
 303 must be recorded for a permit for electrical work, plumbing,
 304 signs, wells, pools, furnaces, boilers, heaters, tanks, and air
 305 conditioners, etc.

306 OWNER'S AFFIDAVIT: I certify that all the foregoing
 307 information is accurate and that all work will be done in
 308 compliance with all applicable laws regulating construction and
 309 zoning.

310 WARNING TO OWNER: Your failure to record a current notice
 311 of commencement may result in your paying twice for improvements
 312 to your property. A notice of commencement must be recorded and
 313 posted at the job site before continuing work.

314 IF YOU INTEND TO OBTAIN FINANCING: consult with your lender
 315 or an attorney before continuing work or recording your notice
 316 of commencement or notice of renewal.

317 ...(Signature of Owner or Agent)...

318 ...(Signature of Contractor)...

319 STATE OF FLORIDA

320 COUNTY OF

321 Sworn to (or affirmed) and subscribed before me this ...
 322 (day of) ..., ... (year) ..., by ... (name of person making

6-01113A-16

20161618__

323 statement)....
 324 ...(Signature of Notary Public-State of Florida)...
 325 ...(Print, Type, or Stamp Commissioned Name of Notary
 326 Public)...
 327 Personally Known OR Produced Identification
 328 Type of Identification Produced
 329 ...(Signature of Contractor)...
 330 STATE OF FLORIDA
 331 COUNTY OF
 332 Sworn to (or affirmed) and subscribed before me this ...
 333 (day of) ..., ...(year)..., by ...(name of person making
 334 statement)....
 335 ...(Signature of Notary Public-State of Florida)...
 336 ...(Print, Type, or Stamp Commissioned Name of Notary
 337 Public)...
 338 Personally Known OR Produced Identification
 339 Type of Identification Produced
 340 ...(Certificate of Competency Holder...)
 341 Contractor's State Certification or Registration No.
 342 Contractor's Certificate of Competency No.
 343 NOTICE OF RENEWAL APPROVED BY
 344 Permit Officer
 345
 346 (c) At the time a notice of renewal is filed, a
 347 permitholder shall also amend the notice of commencement as
 348 provided in s. 713.13(5).
 349 Section 7. This act shall take effect July 1, 2016.