

Cantwell & Goldman, P.A.

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Central Florida Law Reporter

Construction Law – The Lien Process: Part 2

Last month's edition of the Central Florida Law Reporter addressed the basic protections afforded to various parties under the Florida Construction Lien Law. This law, found in Florida Statute Chapter 713, protects the landowner by requiring lienors to provide notice to the landowner of possible and pending liens, and protects certain parties who perform work on or provide material to improve the property.



If a Notice of Commencement was properly recorded, and the Notice to Owner was properly executed and served, then upon non-payment or inadequate payment, a lienor may file a claim of lien and a lawsuit to foreclose the lien.

If a claim under a lien has not been paid, the claimant should provide notice of the deficiency to the owner by filing a Claim of Lien. The claimant must file the Claim of Lien in the county where the real property is located and follow the statutory form. A Claim of Lien can be amended during the period allowed for recording. The claim of lien may be recorded at any time during

the progress of the work or thereafter but not later than 90 days after the final furnishing of the labor, services or materials. A single claim of lien may be limited to a part of multiple lots, parcels, or tracts of land and improvements or may cover all of the lots, parcels, or tracts of land and improvements.

A construction lien filed in accordance with the provisions of Chapter 713 lasts for one year, after the claim of lien has been recorded or 1 year after the recording of an amended claim of lien that shows a later date of final furnishing of labor, services, or materials. An owner, or owner's attorney, can shorten the one year duration to 60 days by filing a Notice of Contest of Lien with the clerk's office, in the county where the original Notice of Commencement and Claim of Lien was recorded.

To foreclose on a construction lien, a party should file suit within the previously described time period. As part of the legal process, it is essential that the lienor's attorney also file a lis pendens to preserve the enforceability of the lien against subsequent creditors and purchasers of value outside of the one year period. The timing and notice requirements are complicated, and the rules must be followed very carefully or you could end up paying twice for the work, or not be paid at all as the contractor.

The attorneys at Cantwell & Goldman, P.A. have years of experience in real estate law, construction law, and construction law litigation, among many other practice areas. More information is available on our website, at www.hmtlaw.com. If you have questions concerning any information contained herein, please schedule a consultation with one of our knowledgeable attorneys.

Legal News: Legislation Limits Liability for Improved Cybersecurity

From stolen credit card information to the cancellation of a major motion picture, cybersecurity has been the focal point of several headlines this past year. Private companies and the government are facing the growing threat of the real and ever-present danger of a computer system breach. These breaches cost private companies tens of millions of dollars.

On April 22, 2015 Congress responded to this threat by passing The Protecting Cyber Networks Act (PCNA), which passed by 307 votes to 116 in the House. Currently, the bill awaits passage in the Senate. PCNA's goal is to encourage the sharing of data breach information among companies and the government. PCNA encourages data sharing by limiting the liability for companies that share information. In order to benefit from PCNA's liability elimination provision, companies will first have to "wash" personal information from any data, and then a government agency will repeat the process, ensuring consumer privacy. Experts in cybersecurity believe that the government and private industry will benefit from improved sharing under PCNA.



Consumer Watch: Government Agency Name Invoked in Latest Scam

The Federal Trade Commission (FTC), which ironically helps protect individuals from scammers (among other tasks), has had its own name used connection with a new scam.

Targets of the scam, which is a hybrid of a sweepstakes and government imposter scam, receive a letter from an "attorney" stating that they won a prize. The letter further states that while they failed to claim the prize because of an investigation by the FTC into the sweepstakes company, the target is now eligible to collect the prize. If the targeted individual wishes, he or she can employ the FTC appointed attorney's services to collect the prize. There is a "retainer" fee for the attorney, which costs thousands of dollars.

The FTC goes on to warn that it does not oversee sweepstakes but that they do prosecute sweepstakes scams. They also remind consumers that no federal government agency will ask you for money to claim a prize.

For more information about other scams, visit the real FTC's webpage at: <https://www.consumer.ftc.gov/scam-alerts>.

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