

## BACH ATLAS SAMPLE MEMO

# Florida Construction Lien Law

Sample Bach Atlas memo on notice requirements, timing deadlines, lien priority, and consequences of defective or untimely construction-lien notices on private commercial projects.

<b>Original research question</b>	Under Florida Construction Lien Law (Chapter 713), what are the notice and timing requirements for perfecting a construction lien on a private commercial project, and how have Florida appellate courts addressed the consequences of defective or untimely notice, including the effect on lien priority and the right to foreclose?
<b>Jurisdiction / facts</b>	Florida private commercial construction project; statewide Chapter 713 lien-law framework with Florida Supreme Court and DCA authority.
<b>Bach Atlas generation time</b>	Generated in under 4 minutes.
<b>Illustrative manual research estimate</b>	Approximately 4-6+ attorney/paralegal hours, depending on familiarity with Chapter 713, lien-priority issues, and Florida appellate lien-law cases.
<b>Research support disclaimer</b>	Sample only. Not legal advice. Verify authorities and apply professional judgment.

## Micro answer

Under Florida Construction Lien Law (Chapter 713), perfecting a construction lien on a private commercial project requires a recorded Notice of Commencement, timely service of a Notice to Owner within 45 days for non-privity lienors, recording a Claim of Lien within 90 days of final furnishing, and filing suit within one year. Florida courts strictly enforce the 45-day NTO deadline, while applying substantial compliance to many content defects when no party was adversely affected.

## Confidence, Coverage & Methodology

- Overall confidence: High. The statutory framework is drawn from Chapter 713, Florida Statutes, and the case discussion reflects Florida Supreme Court and Florida District Court of Appeal decisions identified in the underlying output.
- Authority layers: Florida Statutes, Chapter 713; Florida Supreme Court decisions including Stunkel, Aetna Casualty, and Holding Electric; Florida DCA decisions addressing notice timing, substantial compliance, and relation-back priority.
- Coverage limitation: Additional Florida appellate decisions may exist that are not reflected in this sample. Counsel should verify current statutory text and case history before relying on the memo for client advice.

## Direct Answer

Florida Construction Lien Law, Part I of Chapter 713, creates an interlocking series of notice and timing requirements that must be satisfied to perfect and enforce a construction lien on private commercial property. Florida courts repeatedly describe the lien law as statutory and strictly construed, especially where timing deadlines are concerned.

The key distinction is between timing requirements and content defects. A lienor that misses the 45-day Notice to Owner deadline or the 90-day Claim of Lien recording deadline generally loses statutory lien rights. By contrast, minor defects in the contents of a notice or claim may be excused under substantial compliance when the opposing party was not adversely affected.

Lien priority is governed largely by the relation-back rule in Sec. 713.07. Construction liens under Secs. 713.05 and 713.06 generally relate back to the date the Notice of Commencement was recorded. That can give a later-recorded Claim of Lien priority over mortgages or encumbrances recorded after the Notice of Commencement.

## Jurisdiction Snapshot

Element	Detail
State	Florida
Governing statute	Chapter 713, Part I, Florida Statutes
Courts relied upon	Florida Supreme Court; Florida District Courts of Appeal
Applicability	Private real property improvements statewide

## Key Laws & Sources

### Step 1: Notice of Commencement - Sec. 713.13

- Before commencing improvement of real property, the owner or authorized agent generally records a Notice of Commencement in the clerk office and posts a certified copy at the job site.
- Required content includes the legal description and street address, general description of the improvement, owner information, contractor information, payment-bond information if applicable, construction lender, and the designated person for service of notices.
- The Notice of Commencement is the anchor for relation-back priority under Sec. 713.07. It generally expires after one year unless the contract term exceeds one year, and it is void if the improvement is not commenced within 90 days after recording.

### Step 2: Notice to Owner - Sec. 713.06(2)

- All lienors not in privity with the owner, including most subcontractors, sub-subcontractors, and material suppliers except laborers, must serve a Notice to Owner.
- The notice must be served before commencing or no later than 45 days after commencing to furnish labor, services, or materials, and in all events before the owner makes final payment.
- In *Stunkel v. Gazebo Landscaping Design, Inc.*, the Florida Supreme Court held that the 45-day period begins when services or materials are delivered to the job site, not when preparatory off-site activity occurs.
- A sub-subcontractor must also serve the contractor. A materialman to a sub-subcontractor must serve the contractor and, if known, the subcontractor.

### Step 3: Recording the Claim of Lien - Sec. 713.08

- A Claim of Lien may be recorded during the progress of work or after completion, but must be recorded no later than 90 days after final furnishing of labor, services, or materials.
- Final furnishing is the last date the lienor furnishes labor, services, or materials. Corrective or warranty work usually does not extend the deadline.

- The claim must be served on the owner. Failure to serve before recording or within 15 days after recording makes the claim voidable to the extent the owner is prejudiced.

### Step 4: Foreclosure Action - Sec. 713.22

- A lien does not continue longer than one year after the Claim of Lien is recorded unless an enforcement action is commenced within that time.
- If the owner records a Notice of Contest of Lien, the enforcement window is shortened to 60 days. Failure to file within the shortened period extinguishes the lien.

### Step 5: Contractor Final Payment Affidavit - Sec. 713.06(3)(d)

- A contractor must deliver a final payment affidavit to the owner at least five days before filing an action to enforce the lien.
- Holding Electric, Inc. v. Roberts treats the affidavit requirement as a prerequisite that may be curable before limitations expire, not a jurisdictional defect.

## Lien Priority Under Sec. 713.07

Lien type	Priority attaches
Professional-services liens and subdivision-improvement liens	At recordation of the Claim of Lien
Liens of persons in privity and not in privity	At recordation of the Notice of Commencement (relation back)
If no Notice of Commencement is filed	At recordation of the Claim of Lien

Relation-back rule: Construction liens under Secs. 713.05 and 713.06 generally relate back to the recording date of the Notice of Commencement. A construction lien recorded months into a project can therefore have priority over a mortgage recorded after the Notice of Commencement. An encumbrance recorded before the Notice of Commencement generally has priority over later construction liens.

## Florida Appellate Case Law: Defective or Untimely Notice

### A. Untimely Notice to Owner - Complete Defense

- Sec. 713.06(2)(a) provides that failure to serve the Notice to Owner, or failure to serve it timely, is a complete defense to lien enforcement.
- Stunkel v. Gazebo Landscaping Design, Inc.: the 45-day Notice to Owner period begins when labor, services, or materials are delivered to the job site. The court emphasized strict construction of the lien statute.
- Rite-Way Painting & Plastering, Inc. v. Tetor: affirmed that failure to timely serve the Notice to Owner constitutes a complete defense.
- Zaleznik v. Gulf Coast Roofing Co.: substantial compliance may apply to notice content, but the 45-day timing rule is mandatory.
- Peninsular Supply Co. v. CB Day Realty: even where statutory lien rights are lost due to an untimely Notice to Owner, equitable lien theories may still need separate analysis.

### B. Defective Content - Substantial Compliance

- Sec. 713.06(2)(f) and related case law distinguish content defects from missed timing deadlines.
- A notice or claim defect may not defeat enforcement if the lienor substantially complied and the opposing party was not adversely affected by the error.

- Examples discussed in Florida cases include imperfect descriptions, omitted amounts, and incorrect property descriptions, depending on prejudice and statutory context.

### C. Defective Notice of Commencement - Effect on Priority

- Edwin Taylor Corp. v. MERS: a Notice of Commencement signed by the general contractor with the owner knowledge was not per se void, and relation-back priority could still be preserved.
- Stock Building Supply v. Soares Da Costa: a Notice of Termination is necessary to sever relation-back effects before a new mortgage can achieve first-priority status.
- LaSalle Bank v. Blackton, Inc.: a Notice of Termination that does not strictly comply with Sec. 713.132 is ineffective to terminate the Notice of Commencement.

### D. Late Claim of Lien and Late Enforcement Action

- A Claim of Lien recorded after the 90-day final-furnishing window is untimely and unenforceable. There is no substantial-compliance exception for the deadline itself.
- A lien not enforced by suit within one year expires automatically. A Notice of Contest of Lien shortens the enforcement deadline to 60 days.

## Key Authorities - Summary

Authority	Role
Sec. 713.13, Fla. Stat.	Notice of Commencement; anchor for lien priority
Sec. 713.06(2), Fla. Stat.	Notice to Owner; 45-day deadline
Sec. 713.08, Fla. Stat.	Claim of Lien; 90-day deadline after final furnishing
Sec. 713.07, Fla. Stat.	Relation-back doctrine; lien priority
Sec. 713.22, Fla. Stat.	One-year enforcement; 60-day shortened period after contest
Stunkel v. Gazebo, 660 So. 2d 623 (Fla. 1995)	45-day NTO starts at job-site delivery; strict construction
Aetna Casualty v. Buck, 594 So. 2d 280 (Fla. 1992)	Strict construction of lien law
Holding Electric v. Roberts, 530 So. 2d 301 (Fla. 1988)	Contractor affidavit prerequisite, not jurisdictional
Zaleznik v. Gulf Coast Roofing, 576 So. 2d 776 (Fla. 2d DCA 1991)	Strict compliance on timing; substantial compliance on content

## Suggested Bach Atlas Follow-Up Questions

- Does the particular project involve a construction lender whose mortgage was recorded before or after the Notice of Commencement, making lien-vs.-mortgage priority the central issue?
- Has a payment bond been furnished under Sec. 713.23, which may shift claims from the property to the bond?
- If a lienor lost statutory lien rights due to a timing defect, should counsel evaluate equitable lien theories under Crane Co. v. Fine and Sec. 713.30?

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