

## WFG Informational Bulletin

To: All Florida Policy Issuing Agents of WFG National Title Insurance Company  
From: WFG Underwriting Department  
Date: October 5, 2023  
Bulletin No.: FL 2023-43  
Subject: Liens and Bonds HB 331 (“Stop-Start” Bill)

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On June 1, 2023, Governor DeSantis signed House Bill 331 [CS/CS/HB 331] in to law (“Bill”). The Bill revised several statutory sections pertaining to Notices of Commencement and Notices of Termination of Notices of Commencement. The law became effective on October 1, 2023.

### **Terminating a Notice of Commencement During Construction**

The most significant change the Bill made pertains to Notices of Termination of Notices of Commencement during construction. F.S. 713.132(3) was revised to eliminate the requirement that construction cease when terminating a Notice of Commencement (NOC) during construction. Under the prior version of F.S. 713.132(3), when terminating a NOC during construction, the contractor was required to stop construction, and all lienors (subs, suppliers, and the GC) had to be paid pro rata for the work done through the stoppage date. As of October 1, 2023, when terminating a NOC during construction, construction does not have to cease. However, all lienors still have to be paid pro rata for all work done through a certain date such as, for example, 7 days prior to the closing.

### **Definitions**

F.S. 713.01 was revised to expand the definition of “Contractor” to include a licensed general contractor or building contractor who provides construction management services including scheduling and coordinating preconstruction and construction phases for the project; or who provides program management services.

### **Computation of Time**

F.S. 713.011 was revised to provide that when computing time under Chapter 713, if the last day of any time period is a Saturday, Sunday, holiday, or any day observed by the clerk’s office as a holiday, or designated by the chief judge of the circuit as a holiday, the time period is extended to the end of the next business day. Additionally, if the clerk’s office is closed due to an emergency for one or more days preventing a document from being recorded or a case from being filed, the time period is tolled. After the clerk’s office reopens, the time period is extended by the number of days that the clerk’s office was closed.

### **Notice of Commencement**

F.S. 713.13 was revised to require that the legal description be included in the NOC. “Should” include the legal description was changed to “must” include the legal description.

#### F.S. 713.13(1)(d) - Minor Revisions to NOC Form:

1. Revised to change the expiration date in line number 9 to provide that the expiration date of the NOC is one year “after” the date of recording instead of one year “from” the date of recording unless a different date is specified in the NOC.

2. The Warning at the end of the NOC was revised to provide that the NOC must be recorded and posted on the “site of the improvement” which is a change from posted on the “job site”.

3. The notary section of the NOC was revised to provide for RON by adding the following language to the acknowledgment: “by means of \_\_\_ physical presence or sworn to (or affirmed) by \_\_\_ online notarization”.

#### Permitting Office - F.S. 713.13(1)(h)

F.S. 713.13(1)(h) was revised to provide that the government office issuing the building permit must accept a recorded NOC if the NOC is in the statutory form provided by 731.13(1)(d).

#### **Notice of Termination – Additional Revisions**

F.S. 713.132 was revised to change the form of a Notice of Termination (NOT) as follows:

1. To remove “contractor” from the list of lienors whom the owner must state in the NOT were served with a copy the NOT prior to recording the NOT;

2. To add a statement that the owner will serve a copy of the NOT on each lienor who timely serves a notice to owner after the NOT has been recorded;

3. To provide that if a lienor, who does not have a direct contract with the owner, timely serves a notice to owner after the NOT has been recorded, the owner must serve a copy of the NOT on that lienor. The termination of the NOC as to that lienor is not effective until 30 days after the NOT is served on that lienor.

#### **NOC and Inspections**

F.S. 713.135(1)(e) states that a copy of the NOC must be provided to the permitting office prior to the first inspection by the building authority if the direct contract is greater than \$5,000. That was a change from a direct contract of \$2,500 or more. That section was also revised to confirm that “copy of the NOC” means a certified copy of the NOC recorded in the official records.

#### **Manner of Serving Documents**

F.S. 713.18 (1)(a), regarding serving documents on partnerships, corporations, and limited liability companies, was revised to change “actual delivery” to “hand delivery”; and it was revised to allow hand delivery to “an employee or agent authorized by the partnership, corporation, or limited liability company to receive service”.

#### **Discharge or Release of Lien**

F.S. 713.21(2) was revised to require that a satisfaction or release of lien include the lienor’s notarized signature, and that it must include the recording information for the lien.

#### **Notice of Contest of Lien**

F.S. 713.22(2) was revised to provide that a construction lien “is extinguished automatically” if the lienor fails to file suit to foreclose the lien within 60 days after service of the Notice of Contest of Lien on the lienor. That is a change from “shall be extinguished automatically”. This section was also revised to provide that after the clerk records the Notice of Contest of Lien with the certificate of service on the lienor, that the clerk will serve a copy of the recorded Notice of Contest of Lien on the lienor, and on the

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owner or the owner's attorney. Finally, that section was revised to confirm that a fee will be charged for such services.

Click [HB 331](#) for a copy of the Bill.

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