

Title XL Real and Personal Property
Chapter 713 Liens, Generally
Part I Construction Liens

713.01 Definitions. — As used in this part, the term:

- (1) “Abandoned property” means all tangible personal property that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition.
- (2) “Architect” means a person or firm that is authorized to practice architecture pursuant to chapter 481 or a general contractor who provides architectural services under a design-build contract authorized by s. 481.229(3).
- (3) “Claim of lien” means the claim recorded as provided in s. 713.08.
- (4) “Clerk’s office” means the office of the clerk of the circuit court of the county in which the real property is located.
- (5) “Commencement of the improvement” means the time of filing for record of the notice of commencement provided in s. 713.13.
- (6) “Contract” means an agreement for improving real property, written or unwritten, express or implied, and includes extras or change orders.
- (7) “Contract price” means the amount agreed upon by the contracting parties for performing all labor and services and furnishing all materials covered by their contract and must be increased or diminished by the price of extras or change orders, or by any amounts attributable to changes in the scope of the work or defects in workmanship or materials or any other breaches of the contract; but no penalty or liquidated damages between the owner and a contractor diminishes the contract price as to any other lienor. If no price is agreed upon by the contracting parties, this term means the value of all labor, services, or materials covered by their contract, with any increases and diminutions, as provided in this subsection. Allowance items are a part of the contract when accepted by the owner.
- (8) “Contractor” means a person other than a materialman or laborer who enters into a contract with the owner of real property for improving it, or who takes over from a contractor as so defined the entire remaining work under such contract. The term “contractor” includes an architect, landscape architect, or engineer who improves real property pursuant to a design-build contract authorized by s. 489.103(16).
- (9) “Direct contract” means a contract between the owner and any other person.
- (10) “Engineer” means a person or firm that is authorized to practice engineering pursuant to chapter 471 or a general contractor who provides engineering services under a design-build contract authorized by s. 471.003(2)(i).
- (11) “Extras or change orders” means labor, services, or materials for improving real property authorized by the owner and added to or deleted from labor, services, or materials covered by a previous contract between the same parties.
- (12) “Final furnishing” means the last date that the lienor furnishes labor, services, or materials. Such date may not be measured by other standards, such as the issuance of a certificate of occupancy or the issuance of a certificate of final completion, and does not include correction of deficiencies in the lienor’s previously performed work or materials supplied. With respect to rental equipment, the term means the date that the rental equipment was last on the job site and available for use.
- (13) “Furnish materials” means supply materials which are incorporated in the improvement including normal wastage in construction operations; or specially fabricated materials for incorporation in the improvement, not including any design work, submittals, or the like preliminary to actual fabrication of the materials; or supply materials used for the construction and not remaining in the improvement, subject to diminution by the salvage value of such materials; and includes supplying rental equipment, but does not include supplying hand tools. The delivery of materials to the site of the improvement is prima facie evidence of incorporation of such materials in the improvement. The delivery of rental equipment to the site of the improvement is prima facie evidence of the period of the actual use of the rental equipment from the delivery through the time the equipment is last

- available for use at the site, or 2 business days after the lessor of the rental equipment receives a written notice from the owner or the lessee of the rental equipment to pick up the equipment, whichever occurs first.
- (14) “Improve” means build, erect, place, make, alter, remove, repair, or demolish any improvement over, upon, connected with, or beneath the surface of real property, or excavate any land, or furnish materials for any of these purposes, or perform any labor or services upon the improvements, including the furnishing of carpet or rugs or appliances that are permanently affixed to the real property and final construction cleanup to prepare a structure for occupancy; or perform any labor or services or furnish any materials in grading, seeding, sodding, or planting for landscaping purposes, including the furnishing of trees, shrubs, bushes, or plants that are planted on the real property, or in equipping any improvement with fixtures or permanent apparatus or provide any solid-waste collection or disposal on the site of the improvement.
- (15) “Improvement” means any building, structure, construction, demolition, excavation, solid-waste removal, landscaping, or any part thereof existing, built, erected, placed, made, or done on land or other real property for its permanent benefit.
- (16) “Laborer” means any person other than an architect, landscape architect, engineer, surveyor and mapper, and the like who, under properly authorized contract, personally performs on the site of the improvement labor or services for improving real property and does not furnish materials or labor service of others.
- (17) “Lender” means any person who loans money to an owner for construction of an improvement to real property, who secures that loan by recording a mortgage on the real property, and who periodically disburses portions of the proceeds of that loan for the payment of the improvement.
- (18) “Lienor” means a person who is:
- (a) A contractor;
 - (b) A subcontractor;
 - (c) A sub-subcontractor;
 - (d) A laborer;
 - (e) A materialman who contracts with the owner, a contractor, a subcontractor, or a sub-subcontractor; or
 - (f) A professional lienor under s. 713.03; and who has a lien or prospective lien upon real property under this part, and includes his or her successor in interest. No other person may have a lien under this part.
- (19) “Lienor giving notice” means any lienor, except a contractor, who has duly and timely served a notice to the owner and, if required, to the contractor and subcontractor, as provided in s. 713.06(2).
- (20) “Materialman” means any person who furnishes materials under contract to the owner, contractor, subcontractor, or sub-subcontractor on the site of the improvement or for direct delivery to the site of the improvement or, for specially fabricated materials, off the site of the improvement for the particular improvement, and who performs no labor in the installation thereof.
- (21) “Notice by lienor” means the notice to owner served as provided in s. 713.06(2).
- (22) “Notice of commencement” means the notice recorded as provided in s. 713.13.
- (23) “Owner” means a person who is the owner of any legal or equitable interest in real property, which interest can be sold by legal process, and who enters into a contract for the improvement of the real property. The term includes a condominium association pursuant to chapter 718 as to improvements made to association property or common elements. The term does not include any political subdivision, agency, or department of the state, a municipality, or other governmental entity.
- (24) “Perform” or “furnish” when used in connection with the words “labor” or “services” or “materials” means performance or furnishing by the lienor or by another for him or her.
- (25) “Post” or “posting” means placing the document referred to on the site of the improvement in a conspicuous place at the front of the site and in a manner that protects the document from the weather.

- (26) "Real property" means the land that is improved and the improvements thereon, including fixtures, except any such property owned by the state or any county, municipality, school board, or governmental agency, commission, or political subdivision.
- (27) "Site of the improvement" means the real property which is being improved and on which labor or services are performed or materials furnished in furtherance of the operations of improving such real property. In cases of removal, without demolition and under contract, of an improvement from one lot, parcel, or tract of land to another, this term means the real property to which the improvement is removed.
- (28) "Subcontractor" means a person other than a materialman or laborer who enters into a contract with a contractor for the performance of any part of such contractor's contract, including the removal of solid waste from the real property. The term includes a temporary help firm as defined in s. 443.101.
- (29) "Sub-subcontractor" means a person other than a materialman or laborer who enters into a contract with a subcontractor for the performance of any part of such subcontractor's contract, including the removal of solid waste from the real property. The term includes a temporary help firm as defined in s. 443.101.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 1, ch. 77-353; s. 1, ch. 80-97; s. 2, ch. 90-109; s. 1, ch. 91-102; s. 3, ch. 92-286; ss. 120, 317, ch. 94-119; s. 800, ch. 97-102; s. 2, ch. 98-135; s. 71, ch. 99-3; s. 2, ch. 2001-164; s. 4, ch. 2001-211; s. 2, ch. 2007-221.
Note.—Former s. 84.011.