

The logo for Dinsmore, featuring the word "Dinsmore" in a white, sans-serif font with a small triangle above the letter 'i', set against a blue square background.

Dinsmore

Construction Law 101

IN PLAIN ENGLISH

APRIL 14, 2022


A close-up photograph of a wooden gavel with a gold band resting on its sound block. In the background, a yellow hard hat is visible, slightly out of focus. The image is split diagonally by a blue line, with the top-left portion being white and the bottom-right portion being a dark blue gradient.

[BEGIN >](#)

Today's
Presenter



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Florida Construction Law

- Florida's Contractor Licensing Statute
- Florida's Construction Lien Statute
- Florida's Construction Defect Statute
- Construction Contracts

Chapter 489, *Florida Statutes* Contractor Licensing

- Part I governs most contractors
- Construction Industry Licensing Board

- Part II governs electrical/low voltage contractors
- Electrical Contractor Licensing Board



Chapter 489, *Florida Statutes* Types of Licenses

- General Contractor
- Building Contractor
- Residential Contractor
- Sheet Metal Contractor
- Roofing Contractor
- Class A HVAC Contractor
- Class B HVAC Contractor
- Mechanical Contractor
- Commercial Pool/Spa Contractor
- Residential Pool/Spa Contractor
- Swimming Pool/Spa Servicing Contractor
- Plumbing Contractor
- Underground Utility and Excavation Contractor
- Solar Contractor
- Pollutant Storage Systems Contractor
- Specialty
- Electrical Contractor
- Alarm System Contractor I
- Alarm System Contractor II

Chapter 489, *Florida Statutes* Tips and Tricks!

- Contracts entered into by unlicensed contractors are unenforceable
- Permits must be applied for within 30 days and work started within 90 days of permit issuance where the deposit is larger than 10%
- Homeowner's Construction Recovery Fund, but must exhaust all remedies first



Chapter 713, *Florida Statutes* Construction Liens

- Limited to contractors, subcontractors, sub-subcontractors, material suppliers, and laborers
- Design professionals and surveyors also have lien rights
- Typically only available for work physically performed or materials actually delivered to the jobsite pursuant to a contract

Chapter 713, *Florida Statutes* Contractors vs. Everyone Else

- Contractor = a company with a direct contract with a property owner
- Entitled to a lien for work performed but not paid for
- Must be recorded within 90 days of last day performing work at the project
- Warranty, punch, or corrective work doesn't extend the timeline
- Subcontractors, Material suppliers, etc...
- Entitled to a lien for work performed but not paid for
- Must first serve a notice to owner within 45 days of first performing work at the property
- Then must also record a lien within 90 days of last day performing work at the project
- Warranty, punch, or corrective work doesn't extend the timeline.

Chapter 713, *Florida Statutes* Other Requirements

- Notices of commencement for projects over \$2,500.00
- Funds paid to a contractor must be applied to invoices for the correct project
- Cannot withhold undisputed funds from a contractor
- Liens are valid for one year and cannot be extended. Can shorten this time period
- Liens that are inflated in amount are fraudulent, which can invalidate the entire lien

Chapter 713, *Florida Statutes* Tips and Tricks!

- Contract signed by one spouse binds both for lien purposes
- Can demand a copy of the contract and sworn statements of account
- Can transfer a lien to other security
- Can assign a lien to someone else
- Entitled to attorneys' fees for prevailing on a lien claim

Chapter 558, *Florida Statutes* Construction Defects

- Governs construction defects where the certificate of occupancy has been issued
- A property owner cannot sue a contractor for defective work without first giving notice and an opportunity to inspect/cure
- Can demand copies of plans, expert reports, and many other documents as part of the process

Construction Contracts

Key Terms

- Price
- Scope of Work
- License Number
- Statutory Disclosures
- Change Orders
- Payment Terms / Draw Schedule



When Things Go Wrong Contracts vs. Statutes

- Contract claims
 - What was the performance standard?
 - What were the payment terms?
 - What was the timeline for completion
 - These types of disputes are generally going to be handled in court
- Statutory claims
 - Generally only to challenge a lien or for unlicensed contracting
 - Other consumer protection statutes
- Chapter 489
 - Make a complaint with the state or local licensing agency
- Chapter 558
 - Give notice of defects
- Chapter 553
 - Violations of the Florida Building Code

Questions?



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