

A man in a dark suit stands in profile, looking towards the right. He is in a dark, industrial-looking space. In the background, there is a large, abstract sculpture made of curved, metallic-looking pieces. To the right of the sculpture, there is a metal scaffolding structure. The entire scene is bathed in a deep blue light.

Dinsm^ore

Florida Lien Rights for Credit Managers

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Dinsmôre



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Protecting Payment Rights in Florida

→ **Contract**

- Terms of payment
- Deadlines
- Interest Rates / Late Fees

→ **Construction Lien**

- Notice to Owner
- Deadlines



Contracts

Have a Contract

- **Liens only exist where there is an agreement between the parties**
- **Can be oral or written (713.01)**
- **Important provisions**
 - Master agreement
 - Payment terms
 - Interest rates / late fees
 - Recovery of collection costs
 - Dispute waiver provision
 - Applicable law provision



Lien Rights in Florida

- If your contract is directly with the property owner, a notice to owner/contractor is not required
- If your contract is with anyone else, a notice to owner is required
- Notices to owner can be served anytime from the date of contract to 45 days after materials are first furnished to the project
- First furnishing is generally going to occur at delivery, unless the products are specially manufactured
- Liens can be recorded anytime from the date of first furnishing to within 90 days after last furnishing materials to the project



Notices to Owner

- **Subcontractor, sub-subcontractor, materialman, or laborer**
- **Must serve a notice to owner in the statutory form**
- **Can serve anytime between contract and 45 days after first furnishing of labor, services, or materials**
- **BUT before final payment made after the contractor's final affidavit**
- **Failure to serve is a complete defense to a lien**



Notices to Owner

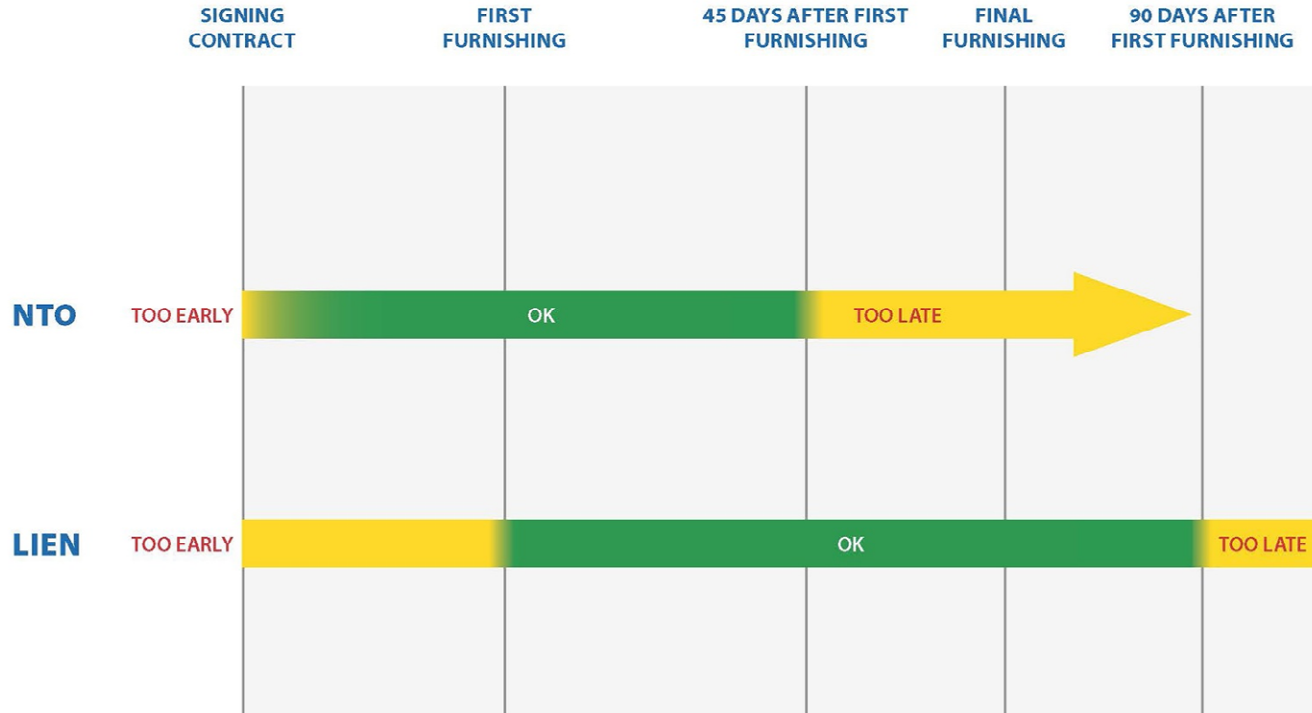
- **Should be prepared using the information contained in the notice of commencement or building permit application**
- **Errors or omissions do not prohibit enforcement of the lien so long as they are not prejudicial**



Construction Lien

- **Can only include amounts for work that is completed. This is different from the total amount of money you may be owed under the contract.**
- **Must be recorded within 90 days of final furnishing or termination of the contract under 713.07 (713.08)**
- **Must be mailed to property owner**
- **Must also mail a contractor's final payment affidavit 5 days before filing a lawsuit**

Lien Deadlines





Releasing Liens

- **Must provide a written lien release**
- **Cannot be required to provide a form other than the statutory form unless the contract calls for it**



Lien Rights outside Florida

- Lien rights vary state by state
- Must comply with the lien laws of the state where the materials are being delivered



How NTOs and Liens Help You Get Paid Faster

- **NTOs and liens force the owner, contract, lender, and/or surety to acknowledge and deal with you**
- **Many times, NTOs and liens stop the issuance of draws on a project**
- **Use the “hit by a bus” analogy to get around complaints**



Developing an NTO and Lien Friendly Workflow

- **Gather property and contractor information upfront**
- **Have provisions in your agreement that allow you to request information and receive it timely**
- **DO EVERYTHING EARLY! Have a set time to send NTOs and record liens**
- **Use templates and/or outsource busy work**

Questions?



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Download a copy at
<https://hammerngavel.com/cle>

A man in a dark suit stands in profile on the left side of the frame, looking towards the right. He is in a dark, industrial-looking space. In the background, a large, metallic dollar sign is partially visible, surrounded by a complex network of scaffolding. The entire scene is bathed in a deep blue light. The text "Accomplish mōre.™" is centered in the middle of the image, with a thin yellow horizontal line underneath it.

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