



Change to Construction Lien Statute - Notice of Termination

Under the new Florida Statute that went into effect on October 1, 2023, work does NOT need to stop in order to establish the construction lender's lien position for a new construction mortgage. Instead of stopping construction, a Notice of Termination (with the contractor's affidavit attached showing all lienors have been paid in full or pro rata in accordance with §713.06, F.S.) is recorded, followed by the insured instrument, and then a new Notice of Commencement.

Payment in full for work performed or materials provided prior to the recordation of the Notice of Termination is still required.

Section 713.132(3) previously prohibited the owner from filing a Notice of Termination until "completion of construction, or after construction ceases before completion and all lienors have been paid in full or pro rata in accordance with §713.06(4)."

The revised statute simply reads: *[a]n owner may record a notice of termination at any time after all lienors have been paid in full or pro rata in accordance with §713.06(4).*

Title Talk Florida



FinCEN Coast to Coast

Effective November 21, 2023, through (at least) April 18, 2024, the FinCEN Geographic Targeting Order (“Order”) has been extended to include the following counties: Hillsborough, Pasco, Pinellas, Manatee, Sarasota, Charlotte, Lee and Collier. This is in addition to Miami-Dade, Broward, and Palm Beach Counties where the Order has been in effect for several years. The Bulletin issued October 20, 2023, can be found [here](#) and the Order can be found [here](#).

While this expansion will impact many more agents throughout the state, the Florida Learning Center has resources available to assist in answering your FinCEN questions and to guide you as you begin filing. You can find a tutorial to FinCEN [here](#).

The underwriting department is prepared to assist you with both your questions and with filing these reports.

Title Talk Florida



Fraud and Notarization

Identity theft continues to be an issue on many transactions in Florida, and the use of fraudulent and forged notary stamps and seals is on the rise. Your vigilance is the only way to combat against this type of fraud. Transactions which contain the following characteristics have a higher likelihood of fraud and warrant additional scrutiny:

- i. Vacant Land/non-owner occupied
- ii. Listed or contracted to sell at below market value
- iii. Local seller requesting mail away closing
- iv. Different location of execution/out of state execution; out of state notary
- v. Funds wired to third location

What can you do to prevent becoming a victim of fraud? Start by contacting the seller using independent sources. For example, many agents have successfully thwarted fraud by sending a letter to the address listed with the property appraiser. Be sure to have control over the notarization- you should be scheduling the notary and/or contacting the notary to confirm that they performed the notarization. This is particularly important when dealing with foreign notaries and U.S. Embassies and Consulates, which have seen an increase in fraud recently. Valuable resources through the Department of Motor Vehicles or vendors like www.intellicheck.com can be instrumental in confirming the seller's identity. Finally, when you receive the documents, verify the seller's signature by comparing to previously recorded documents.

We also want to thank all of you for continuing to report fraudulent and suspicious transactions to the Underwriting Department so that appropriate Alerts can be issued. You can search Alerts for addresses and names which have previously been reported [here](#). By staying vigilant, trusting your instincts, and asking questions, you can help stop fraud in Florida.

Title Talk Florida



Property Fraud Alert

Section 28.47, F.S. was created as of July 1, 2023, and requires the Florida clerks to maintain and operate an opt-in recording notification service. The goal is to help in combatting fraud, where if a property owner registers for this service, the owner will receive electronic notification of instruments recorded affecting their real property within 24 hours of the instrument being recorded.

Currently, there are 64 of the 67 Florida counties participating in this helpful, free service. The 3 counties currently not participating are: Highlands, Jackson and Okaloosa. All 67 counties will be required to provide this service as of July 1, 2024.

The link to register and opt-in to this service is: <https://www.flclerks.com/Page/PropertyAlertServices>

Title Talk Florida

Foreign Ownership of Florida Property

On May 10th of this year, we issued [Bulletin FLB23-08: Conveyances of Florida Real Property to Certain Foreign Entities](#), in response to the signing into law Chapter 692, F.S., which restricts certain foreign persons and entities from purchasing Florida real property and requiring registration to the extent Florida property has already been acquired. While the legislation required the Florida Real Estate Commission (“FREC”) to develop an affidavit for closing agents to utilize to ensure compliance with the statute, FREC’s proposed affidavits and the associated rules are yet to be adopted.

On June 26, 2023, we issued [Bulletin FLB23-09: Affidavit Pertaining to Conveyances of Florida Real Property to Certain Foreign Entities](#), which provided a suggested form for an affidavit that you can chose to use with all your transactions or only on those transactions in which the statute may implicated. Although the State is making efforts to create a database, due to the unavailability of sufficient publicly available resources to ascertain which properties are located within the restricted area around critical infrastructure, developing a plan to address this statute is the best way to avoid potential closing delays and other issues when a non-citizen seeks to purchase property in Florida.

In addition to the restrictions on acquisition of Florida real property, Chapter 692.203 F.S., also requires current property owners that acquired their interest prior to July 1, 2023, from the identified “countries of concern” to register their ownership with the State of Florida by December 31, 2023.

On November 13, 2023, the State of Florida announced that the registration system for foreign owners is now available. The secure portal for the registration system can be accessed [here](#). Penalties for failing to register property can include daily fines of up to \$1,000 for each day registration is late.

We will continue to monitor the status of FREC’s efforts to provide a form affidavit and will update everyone as additional guidance becomes available from the State of Florida and FREC, or in the event the statute is impacted by pending litigation.

Title Talk Florida

Reminder: Witness Addresses

As advised in [Bulletin FLB23-011: Witness Addresses on Instruments affecting Real Property](#), the amendment to §695.26, F.S., requiring the addition of “post office address[es]” to be written, typed, or stamped on instruments affecting real property goes into effect on January 1, 2024. If you have not already done so, start updating your deed forms as soon as possible, as we can expect recording clerks to reject documents which do not conform with the new requirement beginning in the new year.

Statutory Form of Quitclaim Deed

Florida Statute 689.025 went into effect July 1, 2023, and creates a statutory form of quitclaim deed. Therefore, quitclaim deeds must be in substantially in the form set forth in the statute. Statute link can be accessed [here](#).



