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## PROTECTING YOUR LIEN AND BOND RIGHTS IN FLORIDA (Private projects only)

One of the most important tools a subcontractor and supplier has is his or her legal ability to enforce claims for payment through Florida's Lien and Bond Laws. This article is meant to refresh your knowledge regarding lien and bond rights and the proper steps that need to be taken to protect the right to be paid for the work and/or materials furnished.

### I. General Contractors: Securing Lien Rights on Private Projects

#### (a) Prior to commencing work:

- Verify Owner of property by looking up
  - a. The Notice of Commencement. If none is available, then examine:
  - b. The Building Permit, and
  - c. The Property Records, usually available from the Clerk of Courts in the County where the property is located.

Note: if the records are inconsistent regarding the owner of the property, be overly cautious. Send notices to EVERY address you come across, and ALWAYS send statutory notices via certified mail, making sure to keep the green cards that are returned to you upon service. Also, while a Notice to Owner is not technically required to be served by a General Contractor in order to perfect the General Contractor's lien rights, we recommend doing it anyway to establish the habit of doing it on every project.

#### (b) After commencing work:

- A General Contractor's Claim of Lien must be recorded in the County where the property is located within **90 days** of the last day on the job.
- A copy of the Claim of Lien must be served on the owner and all additional parties mentioned in the Notice of Commencement within **15 days** of recording.
- The Contractor's Final Affidavit must be served at least **5 days** prior to filing suit to foreclose on the lien.
- The lien foreclosure action must be filed within **one year** of the date the Claim of Lien was recorded.

## LEGAL INFORMATION FOR THE CONSTRUCTION INDUSTRY

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## II. Subcontractors: Securing Lien and Bond Rights on Private Projects

### (a) Prior to commencing work:

Follow same procedure set forth in I (a) above. A subcontractor should always serve a Notice to Owner / Notice to Contractor.

### (b) After commencing work:

- A Subcontractor's Notice To Owner must be served on the owner, the surety, the general contractor, and all additional parties mentioned in the Notice of Commencement (usually the General Contractor, Surety (if bonded), and the Owner) within **45 days** of starting work or commencing with fabrication of custom materials, supplies, etc. Additionally, a Notice to Owner may be effectively served by mailing the Notice from the post office, as evidenced by a stamped mail log from the postal clerk, within **40 days** of the first date of furnishing.
- A Subcontractor's Claim of Lien must be recorded in the County where the property is located with **90 days** of the last day on the job. If the project is bonded, then a Notice of Nonpayment must be sent via certified mail to the Owner, the General Contractor, and the Surety.
- A copy of the Claim of Lien must be served on the owner and all additional parties mentioned in the Notice of Commencement within **15 days** of recording
- Subcontractor's Final Affidavits are not presently required under Florida law. However, under some circumstances it may be advisable to serve a Final Affidavit at least **5 days** prior to filing suit to foreclose on the lien.
- The lien foreclosure action must be filed within **one year of the date the Claim of Lien was recorded**. If the project is bonded, the action on the bond must be filed within **one year of the last date of service on the project**.

Note: Remember, even if the owner, and/or the surety actually knows you are performing work, you must still serve them with a Notice to Owner. You should also serve the lender if one is mentioned in the Notice of Commencement.

### LIEN

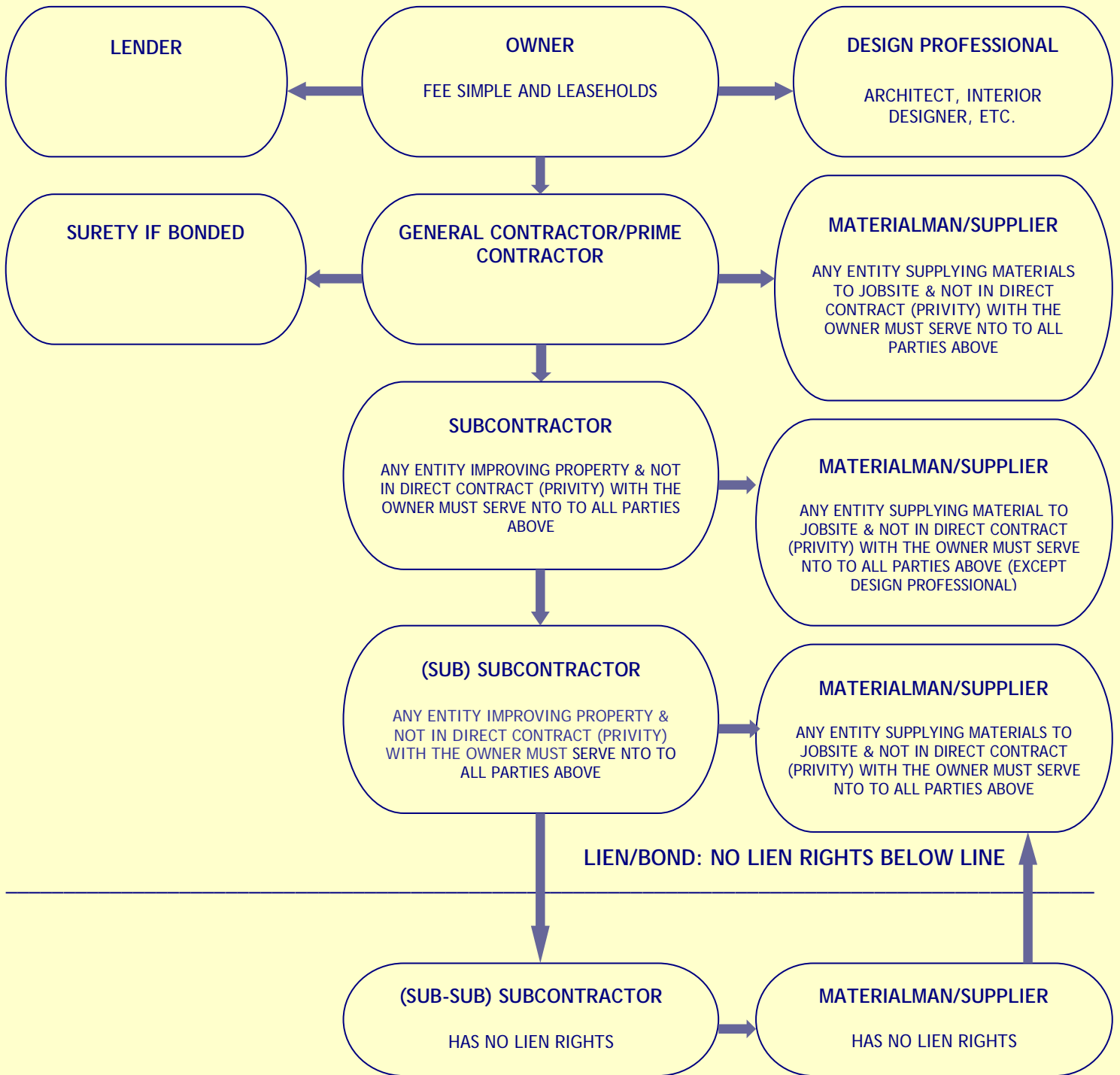
- **Notice to Owner served within 45 days of first date of furnishing**
- **Lien must be recorded within 90 days of last date of furnishing**
- **Suit to foreclose on lien must be filed within 1 year of date lien recorded**



### BOND (Private)

- **Notice to Owner must be served within 45 days of first date of furnishing**
- **Notice of Non-payment must be served within 90 days of last date of furnishing**
- **Suit on bond must be filed within 1 year of last date of furnishing**

**LIEN BOND RIGHTS FLOW CHART - WHICH CATEGORY APPLIES TO YOUR COMPANY?**



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