



26 | amending s. 713.135, F.S.; providing a definition;  
27 | providing applicability; making technical changes;  
28 | providing that an issuing authority is not liable for  
29 | failing to verify that specified information has been  
30 | filed; amending s. 713.18, F.S.; requiring service of  
31 | documents relating to construction bonds to be made in  
32 | a specified manner; making technical changes; amending  
33 | s. 713.21, F.S.; authorizing the full or partial  
34 | release of a lien under specified conditions; amending  
35 | s. 713.22, F.S.; requiring the clerk to serve a copy  
36 | of a notice of contest of lien on certain persons  
37 | after it has been recorded; amending s. 713.23, F.S.;;  
38 | requiring that a copy of a notice of nonpayment be  
39 | served on the surety; revising the process for  
40 | notarizing a notice of nonpayment under a payment  
41 | bond; amending s. 713.24, F.S.; revising the amount  
42 | required in addition to the deposit or bond that  
43 | applies toward attorney fees and costs; requiring the  
44 | clerk to make a copy of the deposit or bond used to  
45 | transfer a lien to other security and mail it to the  
46 | lienor; repealing s. 713.25, F.S., relating to  
47 | applicability of ch. 65-456; amending s. 713.29, F.S.;;  
48 | authorizing attorney fees in actions to enforce a lien  
49 | that has been transferred to security; providing an  
50 | effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (2) of section 255.05, Florida Statutes, is amended, and a new subsection (11) is added to that section, to read:

255.05 Bond of contractor constructing public buildings; form; action by claimants.—

(2)(a)1. If a claimant is no longer furnishing labor, services, or materials on a project, a contractor or the contractor's agent or attorney may elect to shorten the time within which an action to enforce any claim against a payment bond must be commenced by recording in the clerk's office a notice in substantially the following form:

NOTICE OF CONTEST OF CLAIM  
AGAINST PAYMENT BOND

To: ... (Name and address of claimant) ...

You are notified that the undersigned contests your notice of nonpayment, dated ....., ....., and served on the undersigned on ....., ....., and that the time within which you may file suit to enforce your claim is limited to 60 days after the date of service of this notice.

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DATED on ....., .....

Signed: ...(Contractor or Attorney)...

The claim of a claimant upon whom such notice is served and who fails to institute a suit to enforce his or her claim against the payment bond within 60 days after service of such notice is extinguished automatically. The contractor or the contractor's attorney shall serve a copy of the notice of contest on ~~to~~ the claimant at the address shown in the notice of nonpayment or most recent amendment thereto and shall certify to such service on the face of the notice and record the notice.

2. A claimant, except a laborer, who is not in privity with the contractor shall, before commencing or not later than 45 days after commencing to furnish labor, services, or materials for the prosecution of the work, serve the contractor with a written notice that he or she intends to look to the bond for protection. If the payment bond is not recorded before the commencement of work or before the recommencement of work after a default or abandonment, if applicable, as required by s. 255.05(1), then the claimant may serve the contractor with such written notice up to 45 days after the date that the claimant is served with a copy of the bond. A claimant who is not in privity with the contractor and who has not received payment for

101 furnishing his or her labor, services, or materials shall serve  
102 a written notice of nonpayment on the contractor and a copy of  
103 the notice on the surety. The notice of nonpayment must ~~shall~~ be  
104 under oath and served during the progress of the work or  
105 thereafter but may not be served earlier than 45 days after the  
106 first furnishing of labor, services, or materials by the  
107 claimant or later than 90 days after the final furnishing of the  
108 labor, services, or materials by the claimant or, with respect  
109 to rental equipment, later than 90 days after the date that the  
110 rental equipment was last on the ~~job~~ site of the improvement  
111 available for use. Any notice of nonpayment served by a claimant  
112 who is not in privity with the contractor which includes sums  
113 for retainage must specify the portion of the amount claimed for  
114 retainage. An action for the labor, services, or materials may  
115 not be instituted against the contractor or the surety unless  
116 the notice to the contractor and notice of nonpayment have been  
117 served, if required by this section. Notices required or  
118 permitted under this section must be served in accordance with  
119 s. 713.18. A claimant may not waive in advance his or her right  
120 to bring an action under the bond against the surety. In any  
121 action brought to enforce a claim against a payment bond under  
122 this section, the prevailing party is entitled to recover a  
123 reasonable fee for the services of his or her attorney for trial  
124 and appeal or for arbitration, in an amount to be determined by  
125 the court or arbitrator, which fee must be taxed as part of the

126 prevailing party's costs, as allowed in equitable actions. The  
127 time periods for service of a notice of nonpayment or for  
128 bringing an action against a contractor or a surety are ~~shall be~~  
129 measured from the last day of furnishing labor, services, or  
130 materials by the claimant and may not be measured by other  
131 standards, such as the issuance of a certificate of occupancy or  
132 the issuance of a certificate of substantial completion. The  
133 negligent inclusion or omission of any information in the notice  
134 of nonpayment that has not prejudiced the contractor or surety  
135 does not constitute a default that operates to defeat an  
136 otherwise valid bond claim. A claimant who serves a fraudulent  
137 notice of nonpayment forfeits his or her rights under the bond.  
138 A notice of nonpayment is fraudulent if the claimant has  
139 willfully exaggerated the amount unpaid, willfully included a  
140 claim for work not performed or materials not furnished for the  
141 subject improvement, or prepared the notice with such willful  
142 and gross negligence as to amount to a willful exaggeration.  
143 However, a minor mistake or error in a notice of nonpayment, or  
144 a good faith dispute as to the amount unpaid, does not  
145 constitute a willful exaggeration that operates to defeat an  
146 otherwise valid claim against the bond. The service of a  
147 fraudulent notice of nonpayment is a complete defense to the  
148 claimant's claim against the bond. The notice of nonpayment  
149 under this subparagraph must include the following information,  
150 current as of the date of the notice, and must be in

151 substantially the following form:

152

153 NOTICE OF NONPAYMENT

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155 To: ...(name of contractor and address)...

156

157 ...(name of surety and address)...

158

159 The undersigned claimant notifies you that:

160 1. Claimant has furnished ...(describe labor, services, or  
 161 materials)... for the improvement of the real property  
 162 identified as ...(property description).... The corresponding  
 163 amount unpaid to date is \$...., of which \$.... is unpaid  
 164 retainage.

165 2. Claimant has been paid to date the amount of \$.... for  
 166 previously furnishing ...(describe labor, services, or  
 167 materials)... for this improvement.

168 3. Claimant expects to furnish ...(describe labor,  
 169 services, or materials)... for this improvement in the future  
 170 (if known), and the corresponding amount expected to become due  
 171 is \$.... (if known).

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173 I declare that I have read the foregoing Notice of Nonpayment  
 174 and that the facts stated in it are true to the best of my  
 175 knowledge and belief.

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DATED on ....., .....

...(signature and address of claimant)...

STATE OF FLORIDA

COUNTY OF .....

The foregoing instrument was sworn to (or affirmed) and  
subscribed before me by means of  physical presence or sworn to  
(or affirmed) by  online notarization this .... day of .....,  
...(year)...., by ...(name of signatory)....

...(Signature of Notary Public - State of Florida)...

...(Print, Type, or Stamp Commissioned Name of Notary  
Public)...

Personally Known ..... OR Produced Identification .....

Type of Identification Produced

(11) Unless otherwise provided in this section, service of  
any document must be made in accordance with s. 713.18.

Section 2. Paragraph (c) of subsection (1) of section  
337.18, Florida Statutes, is amended, and subsection (6) is  
added to that section, to read:

201           337.18 Surety bonds for construction or maintenance  
 202 contracts; requirement with respect to contract award; bond  
 203 requirements; defaults; damage assessments.—

204           (1)

205           (c) A claimant, except a laborer, who is not in privity  
 206 with the contractor shall, before commencing or not later than  
 207 90 days after commencing to furnish labor, materials, or  
 208 supplies for the prosecution of the work, furnish the contractor  
 209 with a notice that he or she intends to look to the bond for  
 210 protection. A claimant who is not in privity with the contractor  
 211 and who has not received payment for his or her labor,  
 212 materials, or supplies shall deliver to the contractor and to  
 213 the surety written notice of the performance of the labor or  
 214 delivery of the materials or supplies and of the nonpayment. The  
 215 notice of nonpayment may be served at any time during the  
 216 progress of the work or thereafter but not before 45 days after  
 217 the first furnishing of labor, services, or materials, and not  
 218 later than 90 days after the final furnishing of the labor,  
 219 services, or materials by the claimant or, with respect to  
 220 rental equipment, not later than 90 days after the date that the  
 221 rental equipment was last on the ~~job~~ site of the improvement  
 222 available for use. An action by a claimant, except a laborer,  
 223 who is not in privity with the contractor for the labor,  
 224 materials, or supplies may not be instituted against the  
 225 contractor or the surety unless both notices have been given.

226 Written notices required or permitted under this section must  
 227 ~~may~~ be served in accordance with ~~any manner provided in~~ s.  
 228 713.18.

229 (6) Unless otherwise provided in this section, service of  
 230 any document must be made in accordance with s. 713.18.

231 Section 3. Subsections (13) through (27) and subsections  
 232 (28) and (29) of section 713.01, Florida Statutes, are  
 233 renumbered as subsections (14) through (28) and subsections (30)  
 234 and (31), respectively, subsections (4), (8), and (12) of that  
 235 section are amended, and new subsections (13) and (29) are added  
 236 to that section, to read:

237 713.01 Definitions.—As used in this part, the term:

238 (4) "Clerk's office" means the office of the clerk of the  
 239 circuit court of the county, or another office serving as the  
 240 county recorder as provided by law, in which the real property  
 241 is located.

242 (8) "Contractor" means a person other than a materialman  
 243 or laborer who enters into a contract with the owner of real  
 244 property for improving it, or who takes over from a contractor  
 245 as so defined the entire remaining work under such contract. The  
 246 term "contractor" includes an architect, landscape architect, or  
 247 engineer who improves real property pursuant to a design-build  
 248 contract authorized by s. 489.103(16). The term also includes a  
 249 licensed general contractor or building contractor, as those  
 250 terms are defined in s. 489.105(3)(a) and (b), respectively, who

251 provides construction management services, which include  
252 scheduling and coordinating both preconstruction and  
253 construction phases for the construction project or who provides  
254 program management services, which include schedule control,  
255 cost control, and coordination in providing or procuring  
256 planning, design, and construction.

257 (12) "Final furnishing" means the last date that the  
258 lienor furnishes labor, services, or materials. Such date may  
259 not be measured by other standards, such as the issuance of a  
260 certificate of occupancy or the issuance of a certificate of  
261 final completion, and does not include the correction of  
262 deficiencies in the lienor's previously performed work or  
263 materials supplied. With respect to rental equipment, the term  
264 means the date that the rental equipment was last on the ~~job~~  
265 site of the improvement and available for use. With respect to  
266 specially fabricated materials, the term means the date that the  
267 last portion of the specially fabricated materials is delivered  
268 to the site of the improvement, or if any portion of the  
269 specially fabricated materials is not delivered to the site of  
270 the improvement by no fault of the lienor, the term means 90  
271 days after the date the lienor completes the fabrication or 90  
272 days before the expiration of the notice of commencement,  
273 whichever is earlier.

274 (13) "Finance charge" means a contractually specified  
275 additional amount to be paid by the obligor on any balance that

276 remains unpaid by the due date set forth in the credit agreement  
277 or other contract.

278 (29) "Specially fabricated materials" means materials  
279 designed and fabricated for use in a particular improvement that  
280 are not generally suited for or readily adaptable for use in a  
281 similar improvement.

282 Section 4. Section 713.011, Florida Statutes, is created  
283 to read:

284 713.011 Computation of time.—

285 (1) In computing any time period for recording a document  
286 or filing an action under this part, if the last day of the time  
287 period is a Saturday, Sunday, legal holiday, or any day observed  
288 as a holiday by the clerk's office, the time period is extended  
289 to the end of the next business day. In computing any other time  
290 period under this part, if the last day of the time period is a  
291 Saturday, Sunday, or legal holiday, the time period is extended  
292 to the end of the next business day.

293 (2) If a clerk's office is directed to close by a federal,  
294 state, or local governmental order in response to a state of  
295 emergency declared under chapter 252, the time periods for  
296 recording a document or filing an action with that clerk's  
297 office under this part are tolled until the first business day  
298 after the clerk's office reopens. For purposes of this  
299 subsection, a clerk's office is considered open if it is  
300 recording or filing documents submitted electronically.

301 Section 5. Paragraph (b) of subsection (2) of section  
 302 713.10, Florida Statutes, is amended, and subsection (4) is  
 303 added to that section, to read:

304 713.10 Extent of liens.—

305 (2)

306 (b) The interest of the lessor is not subject to liens for  
 307 improvements made by the lessee when:

308 1. The lease, or a short form or a memorandum of the lease  
 309 that contains the specific language in the lease prohibiting  
 310 such liability, is recorded in the official records of the  
 311 county where the premises are located before the recording of a  
 312 notice of commencement for improvements to the premises and the  
 313 terms of the lease expressly prohibit such liability; or

314 2. The terms of the lease expressly prohibit such  
 315 liability, and a notice advising that leases for the rental of  
 316 premises on a parcel of land prohibit such liability has been  
 317 recorded in the official records of the county in which the  
 318 parcel of land is located before the recording of a notice of  
 319 commencement for improvements to the premises, and the notice  
 320 includes the following:

321 a. The name of the lessor.

322 b. The legal description of the parcel of land to which  
 323 the notice applies.

324 c. The specific language contained in the various leases  
 325 prohibiting such liability.

326 d. A statement that all or a majority of the leases  
 327 entered into for premises on the parcel of land expressly  
 328 prohibit such liability.

329 ~~3. The lessee is a mobile home owner who is leasing a~~  
 330 ~~mobile home lot in a mobile home park from the lessor.~~

331  
 332 A notice that is consistent with subparagraph 2. effectively  
 333 prohibits liens for improvements made by a lessee even if other  
 334 leases for premises on the parcel do not expressly prohibit  
 335 liens or if provisions of each lease restricting the application  
 336 of liens are not identical.

337 (4) The interest of the lessor is not subject to liens for  
 338 improvements made by the lessee when the lessee is a mobile home  
 339 owner who is leasing a mobile home lot in a mobile home park  
 340 from the lessor.

341 Section 6. Paragraphs (a) and (d) of subsection (1) of  
 342 section 713.13, Florida Statutes, are amended to read:

343 713.13 Notice of commencement.—

344 (1)(a) Except for an improvement that is exempt under  
 345 ~~pursuant to~~ s. 713.02(5), an owner or the owner's authorized  
 346 agent before actually commencing to improve any real property,  
 347 or recommencing completion of any improvement after default or  
 348 abandonment, whether or not a project has a payment bond  
 349 complying with s. 713.23, shall record a notice of commencement  
 350 in the clerk's office and ~~forthwith~~ post either a certified copy

351 |    thereof or a notarized statement that the notice of commencement  
 352 |    has been filed for recording along with a copy thereof. The  
 353 |    notice of commencement shall contain all of the following  
 354 |    information:

355 |         1. A description sufficient for identification of the real  
 356 |    property to be improved. The description should include the  
 357 |    legal description of the property and also should include the  
 358 |    street address and tax folio number of the property if available  
 359 |    or, if there is no street address available, such additional  
 360 |    information as will describe the physical location of the real  
 361 |    property to be improved.

362 |         2. A general description of the improvement.

363 |         3. The name and address of the owner, the owner's interest  
 364 |    in the site of the improvement, and the name and address of the  
 365 |    fee simple titleholder, if other than such owner. A lessee who  
 366 |    contracts for the improvements is an owner as defined under s.  
 367 |    713.01 ~~s. 713.01(23)~~ and must be listed as the owner together  
 368 |    with a statement that the ownership interest is a leasehold  
 369 |    interest.

370 |         4. The name and address of the contractor.

371 |         5. The name and address of the surety on the payment bond  
 372 |    under s. 713.23, if any, and the amount of such bond.

373 |         6. The name and address of any person making a loan for  
 374 |    the construction of the improvements.

375 |         7. The name and address within the state of a person other

376 | than himself or herself who may be designated by the owner as  
 377 | the person upon whom notices or other documents may be served  
 378 | under this part; and service upon the person so designated  
 379 | constitutes service upon the owner.

380 | (d) A notice of commencement must be in substantially the  
 381 | following form:

382 |  
 383 | Permit No..... Tax Folio No.....

384 | NOTICE OF COMMENCEMENT

385 | State of....  
 386 | County of....

387 |  
 388 | The undersigned hereby gives notice that improvement will be  
 389 | made to certain real property, and in accordance with Chapter  
 390 | 713, Florida Statutes, the following information is provided in  
 391 | this Notice of Commencement.

392 | 1. Description of property: ...(legal description of the  
 393 | property, and street address if available)....

394 | 2. General description of improvement:.....

395 | 3. Owner information or Lessee information if the Lessee  
 396 | contracted for the improvement:

397 | a. Name and address:.....

398 | b. Interest in property:.....

399 | c. Name and address of fee simple titleholder (if  
 400 | different from Owner listed above):.....

401           4.a. Contractor: ...(name and address)....

402           b. Contractor's phone number:.....

403           5. Surety (if applicable, a copy of the payment bond is

404 attached):

405           a. Name and address:.....

406           b. Phone number:.....

407           c. Amount of bond: \$.....

408           6.a. Lender: ...(name and address)....

409           b. Lender's phone number:.....

410           7. Persons within the State of Florida designated by Owner

411 upon whom notices or other documents may be served as provided

412 by Section 713.13(1)(a)7., Florida Statutes:

413           a. Name and address:.....

414           b. Phone numbers of designated persons:.....

415           8.a. In addition to himself or herself, Owner designates

416 ..... of ..... to receive a copy of the Lienor's

417 Notice as provided in Section 713.13(1)(b), Florida Statutes.

418           b. Phone number of person or entity designated by

419 owner:.....

420           9. Expiration date of notice of commencement (the

421 expiration date will be 1 year after ~~from~~ the date of recording

422 unless a different date is specified).....

423

424 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE

425 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER

426 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA  
 427 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS  
 428 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND  
 429 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU  
 430 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN  
 431 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF  
 432 COMMENCEMENT.

433

434 ... (Signature of Owner or Lessee, or Owner's or Lessee's  
 435 Authorized Officer/Director/Partner/Manager)...

436

437 ... (Signatory's Title/Office)...

438

439 The foregoing instrument was acknowledged before me by means of  
 440  physical presence or acknowledged before me by means of   
 441 online notarization, this .... day of ....., ... (year) ..., by  
 442 ... (name of person) ... as ... (type of authority, . . . e.g.  
 443 officer, trustee, attorney in fact) ... for ... (name of party on  
 444 behalf of whom instrument was executed) ....

445

446 ... (Signature of Notary Public - State of Florida) ...

447

448 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

449

450 Personally Known .... OR Produced Identification ....

451  
 452 Type of Identification Produced.....  
 453 Section 7. Subsections (1), (3), and (4) of section  
 454 713.132, Florida Statutes, are amended to read:  
 455 713.132 Notice of termination.—  
 456 (1) An owner may terminate the period of effectiveness of  
 457 a notice of commencement by executing, swearing to, and  
 458 recording a notice of termination that contains all of the  
 459 following:  
 460 (a) The same information as the notice of commencement.‡  
 461 (b) The official records' ~~recording office document book~~  
 462 ~~and page~~ reference numbers and recording date affixed by the  
 463 recording office on ~~of~~ the recorded notice of commencement.‡  
 464 (c) A statement of the date as of which the notice of  
 465 commencement is terminated, which date may not be earlier than  
 466 30 days after the notice of termination is recorded.‡  
 467 (d) A statement specifying that the notice applies to all  
 468 the real property subject to the notice of commencement or  
 469 specifying the portion of such real property to which it  
 470 applies.‡  
 471 (e) A statement that all lienors have been paid in full.‡  
 472 ~~and~~  
 473 (f) A statement that the owner has, before recording the  
 474 notice of termination, served a copy of the notice of  
 475 termination ~~on the contractor and~~ on each lienor who has a

476 direct contract with the owner or who has timely served a notice  
 477 to owner, and a statement that the owner will serve a copy of  
 478 the notice of termination on each lienor who timely serves a  
 479 notice to owner after the notice of termination has been  
 480 recorded. The owner is not required to serve a copy of the  
 481 notice of termination on any lienor who has executed a waiver  
 482 and release of lien upon final payment in accordance with s.  
 483 713.20.

484 (3) An owner may ~~not~~ record a notice of termination at any  
 485 time after ~~except after completion of construction, or after~~  
 486 ~~construction ceases before completion and~~ all lienors have been  
 487 paid in full or pro rata in accordance with s. 713.06(4).

488 (4) If an owner or a contractor, by fraud or collusion,  
 489 knowingly makes any fraudulent statement or affidavit in a  
 490 notice of termination or any accompanying affidavit, the owner  
 491 and the contractor, or either of them, ~~as the case may be,~~ is  
 492 liable to any lienor who suffers damages as a result of the  
 493 filing of the fraudulent notice of termination, ~~and~~ and any such  
 494 lienor has a right of action for damages ~~occasioned thereby~~.

495 (5)~~(4)~~ A notice of termination must be served before  
 496 recording on each lienor who has a direct contract with the  
 497 owner and on each lienor who has timely and properly served a  
 498 notice to owner in accordance with this part before the  
 499 recording of the notice of termination. A notice of termination  
 500 must be recorded in the official records of the county in which

501 the improvement is located. If properly served before recording  
 502 in accordance with this subsection, the notice of termination  
 503 terminates the period of effectiveness of the notice of  
 504 commencement 30 days after the notice of termination is recorded  
 505 in the official records ~~is effective to terminate the notice of~~  
 506 ~~commencement at the later of 30 days after recording of the~~  
 507 ~~notice of termination or a later~~ the date stated in the notice  
 508 of termination as the date on which the notice of commencement  
 509 is terminated. However, if a lienor who began work under the  
 510 notice of commencement before its termination lacks a direct  
 511 contract with the owner and timely serves his or her notice to  
 512 owner after the notice of termination has been recorded, the  
 513 owner must serve a copy of the notice of termination upon such  
 514 lienor, and the termination of the notice of commencement as to  
 515 that lienor is effective 30 days after service of the notice of  
 516 termination, ~~if the notice of termination has been served~~  
 517 ~~pursuant to paragraph (1) (f) on the contractor and on each~~  
 518 ~~lienor who has a direct contract with the owner or who has~~  
 519 ~~served a notice to owner.~~

520 Section 8. Subsections (1) and (3) of section 713.135,  
 521 Florida Statutes, are amended to read:

522 713.135 Notice of commencement and applicability of lien.—

523 (1) When a ~~any~~ person applies for a building permit, the  
 524 authority issuing such permit shall:

525 (a) Print on the face of each permit card in no less than

526 14-point, capitalized, boldfaced type: "WARNING TO OWNER: YOUR  
527 FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR  
528 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF  
529 COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE  
530 THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT  
531 WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF  
532 COMMENCEMENT."

533 (b) Provide the applicant and the owner of the real  
534 property upon which improvements are to be constructed with a  
535 printed statement stating that the right, title, and interest of  
536 the person who has contracted for the improvement may be subject  
537 to attachment under the Construction Lien Law. The Department of  
538 Business and Professional Regulation shall furnish, for  
539 distribution, the statement described in this paragraph, and the  
540 statement must be a summary of the Construction Lien Law and  
541 must include an explanation of the provisions of the  
542 Construction Lien Law relating to the recording, and the posting  
543 of copies, of notices of commencement and a statement  
544 encouraging the owner to record a notice of commencement and  
545 post a copy of the notice of commencement in accordance with s.  
546 713.13. The statement must also contain an explanation of the  
547 owner's rights if a lienor fails to furnish the owner with a  
548 notice as provided in s. 713.06(2) and an explanation of the  
549 owner's rights as provided in s. 713.22. The authority that  
550 issues the building permit must obtain from the Department of

551 Business and Professional Regulation the statement required by  
552 this paragraph and must mail, deliver by electronic mail or  
553 other electronic format or facsimile, or personally deliver that  
554 statement to the owner or, in a case in which the owner is  
555 required to personally appear to obtain the permit, provide that  
556 statement to any owner making improvements to real property  
557 consisting of a single or multiple family dwelling up to and  
558 including four units. However, the failure by the authorities to  
559 provide the summary does not subject the issuing authority to  
560 liability.

561 (c) In addition to providing the owner with the statement  
562 as required by paragraph (b), inform each applicant who is not  
563 the person whose right, title, and interest is subject to  
564 attachment that, as a condition to the issuance of a building  
565 permit, the applicant must promise in good faith that the  
566 statement will be delivered to the person whose property is  
567 subject to attachment.

568 (d) Furnish to the applicant two or more copies of a form  
569 of notice of commencement conforming with s. 713.13.

570 (e) Require ~~If the direct contract is greater than \$2,500,~~  
571 the applicant ~~to shall~~ file with the issuing authority before  
572 ~~prior to~~ the first inspection ~~either a certified copy of the~~  
573 ~~recorded~~ notice of commencement if the direct contract is  
574 greater than \$2,500. For purposes of this paragraph, the term  
575 "copy of the notice of commencement" means a certified copy of

576 the recorded notice of commencement, ~~or~~ a notarized statement  
577 that the notice of commencement has been filed for recording,  
578 along with a copy thereof, or the clerk's office official  
579 records identifying information that includes the instrument  
580 number for the notice of commencement or the number and page of  
581 book where the notice of commencement is recorded, as identified  
582 by the clerk.

583 1. In the absence of the filing of a ~~certified~~ copy of the  
584 ~~recorded~~ notice of commencement, the issuing authority or a  
585 private provider performing inspection services may not perform  
586 or approve subsequent inspections until the applicant files by  
587 mail, facsimile, hand delivery, or any other means such  
588 ~~certified~~ copy with the issuing authority.

589 2. The ~~certified~~ copy of the notice of commencement must  
590 contain the name and address of the owner, the name and address  
591 of the contractor, and the location or address of the property  
592 being improved. The issuing authority shall verify that the name  
593 and address of the owner, the name of the contractor, and the  
594 location or address of the property being improved which is  
595 contained in the ~~certified~~ copy of the notice of commencement is  
596 consistent with the information in the building permit  
597 application.

598 3. The issuing authority shall provide the recording  
599 information on the ~~certified~~ copy of the ~~recorded~~ notice of  
600 commencement to any person upon request.

601           4. This subsection does not require the recording of a  
 602 notice of commencement before ~~prior to~~ the issuance of a  
 603 building permit. If a local government requires a separate  
 604 permit or inspection for installation of temporary electrical  
 605 service or other temporary utility service, land clearing, or  
 606 other preliminary site work, such permits may be issued and such  
 607 inspections may be conducted without providing the issuing  
 608 authority with a ~~certified~~ copy of the ~~a recorded~~ notice of  
 609 commencement ~~or a notarized statement regarding a recorded~~  
 610 ~~notice of commencement. This subsection does not apply to a~~  
 611 ~~direct contract to repair or replace an existing heating or air-~~  
 612 ~~conditioning system in an amount less than \$7,500.~~

613           (f) ~~(e)~~ Not require that a notice of commencement be  
 614 recorded as a condition of the application for, or processing or  
 615 issuance of, a building permit. However, this paragraph does not  
 616 modify or waive the inspection requirements set forth in this  
 617 subsection.

618  
 619 This subsection does not apply to a direct contract to repair or  
 620 replace an existing heating or air-conditioning system in an  
 621 amount less than \$7,500.

622           (3) An issuing authority under subsection (1) is not  
 623 liable in any civil action for the failure to verify that a  
 624 certified copy of the recorded notice of commencement, a  
 625 notarized statement that the notice of commencement has been

626 filed for recording along with a copy thereof, or the clerk's  
627 office official records identifying information that includes  
628 the instrument number for the notice of commencement or the  
629 number and page of book where the notice of commencement is  
630 recorded, as identified by the clerk, has been filed in  
631 accordance with this section.

632 Section 9. Section 713.18, Florida Statutes, is amended to  
633 read:

634 713.18 Manner of serving documents ~~notices and other~~  
635 ~~instruments.~~-

636 (1) Unless otherwise specifically provided by law, service  
637 of any document ~~notices, claims of lien, affidavits,~~  
638 ~~assignments, and other instruments~~ permitted or required under  
639 this part, s. 255.05, or s. 337.18, or copies thereof when so  
640 permitted or required, ~~unless otherwise specifically provided in~~  
641 ~~this part,~~ must be made by one of the following methods:

642 (a) By hand ~~actual~~ delivery to the person to be served; if  
643 a partnership, to one of the partners; if a corporation, to an  
644 officer, director, managing agent, or business agent; or, if a  
645 limited liability company, to a member or manager.

646 (b) By common carrier delivery service or by registered,  
647 Global Express Guaranteed, or certified mail to the person to be  
648 served, with postage or shipping paid by the sender and with  
649 evidence of delivery, which may be in an electronic format.

650 (c) By posting on the site of the improvement if service

651 as provided by paragraph (a) or paragraph (b) cannot be  
 652 accomplished.

653 (2) Notwithstanding subsection (1), service of a notice to  
 654 owner or a preliminary notice to contractor under this part, s.  
 655 255.05, or s. 337.18,~~or s. 713.23~~ is effective as of the date  
 656 of mailing and the requirements for service under this section  
 657 have been satisfied if all of the following requirements have  
 658 been met:

659 (a) The notice is mailed by registered, Global Express  
 660 Guaranteed, or certified mail, with postage prepaid, to the  
 661 person to be served and addressed as prescribed ~~at any of the~~  
 662 ~~addresses set forth~~ in subsection (3) ~~.~~

663 (b) The notice is mailed within 40 days after the date the  
 664 lienor first furnishes labor, services, or materials ~~.~~ ~~and~~

665 (c)1. The person who served the notice maintains a  
 666 registered or certified mail log that shows the registered or  
 667 certified mail number issued by the United States Postal  
 668 Service, the name and address of the person served, and the date  
 669 stamp of the United States Postal Service confirming the date of  
 670 mailing; or

671 2. The person who served the notice maintains ~~electronic~~  
 672 tracking records approved or generated by the United States  
 673 Postal Service containing the postal tracking number, ~~the name~~  
 674 ~~and address of the person served,~~ and verification of the date  
 675 of receipt by the United States Postal Service.

676 (3) (a) Notwithstanding subsection (1), service of a  
 677 document under an instrument pursuant to this section is  
 678 effective on the date of mailing or shipping, and the  
 679 requirements for service under this section have been satisfied,  
 680 ~~the instrument if the document it:~~

681 1. Is sent to the last address shown in the notice of  
 682 commencement or any amendment thereto or, in the absence of a  
 683 notice of commencement, to the last address shown in the  
 684 building permit application, or to the last known address of the  
 685 person to be served. ~~and~~

686 2. Is returned as being "refused," "moved, not  
 687 forwardable," or "unclaimed," or is otherwise not delivered or  
 688 deliverable through no fault of the person serving the document  
 689 ~~item.~~

690 (b) If the address shown in the notice of commencement or  
 691 any amendment thereto ~~to the notice of commencement,~~ or, in the  
 692 absence of a notice of commencement, in the building permit  
 693 application, is incomplete for purposes of mailing or delivery,  
 694 the person serving the document ~~item~~ may complete the address  
 695 and properly format it according to United States Postal Service  
 696 addressing standards using information obtained from the  
 697 property appraiser or another public record without affecting  
 698 the validity of service under this section.

699 (4) A document ~~notice~~ served by a lienor on one owner or  
 700 one partner of a partnership owning the real property is deemed

701 served on notice to all owners and partners.

702 Section 10. Section 713.21, Florida Statutes, is amended  
703 to read:

704 713.21 Discharge of lien.—A lien properly perfected under  
705 this chapter may be discharged, or released in whole or in part,  
706 by any of the following methods:

707 (1) By entering satisfaction of the lien upon the margin  
708 of the record thereof in the clerk's office when not otherwise  
709 prohibited by law. This satisfaction shall be signed by the  
710 lienor, the lienor's agent or attorney and attested by said  
711 clerk. Any person who executes a claim of lien has ~~shall have~~  
712 authority to execute a satisfaction in the absence of actual  
713 notice of lack of authority to any person relying on the same.

714 (2) By the satisfaction or release of the lienor, duly  
715 acknowledged and recorded in the clerk's office. The  
716 satisfaction or release must include the lienor's notarized  
717 signature and set forth the official records' reference numbers  
718 and recording date affixed by the recording office on the  
719 subject lien. Any person who executes a claim of lien has ~~shall~~  
720 ~~have~~ authority to execute a satisfaction or release in the  
721 absence of actual notice of lack of authority to any person  
722 relying on the same.

723 (3) By failure to begin an action to enforce the lien  
724 within the time prescribed in this part.

725 (4) By an order of the circuit court of the county where

726 the property is located, as provided in this subsection. Upon  
 727 filing a complaint therefor by any interested party the clerk  
 728 shall issue a summons to the lienor to show cause within 20 days  
 729 why his or her lien should not be enforced by action or vacated  
 730 and canceled of record. Upon failure of the lienor to show cause  
 731 why his or her lien should not be enforced or the lienor's  
 732 failure to commence such action before the return date of the  
 733 summons the court shall forthwith order cancellation of the  
 734 lien.

735 (5) By recording in the clerk's office the original or a  
 736 certified copy of a judgment or decree of a court of competent  
 737 jurisdiction showing a final determination of the action.

738 Section 11. Subsection (2) of section 713.22, Florida  
 739 Statutes, is amended to read:

740 713.22 Duration of lien.—

741 (2) An owner or the owner's attorney may elect to shorten  
 742 the time prescribed in subsection (1) within which to commence  
 743 an action to enforce any claim of lien or claim against a bond  
 744 or other security under s. 713.23 or s. 713.24 by recording in  
 745 the clerk's office a notice in substantially the following form:

746 NOTICE OF CONTEST OF LIEN

747 To: ... (Name and address of lienor) ...

748 You are notified that the undersigned contests the claim of lien  
 749 filed by you on ....., ... (year) ..., and recorded in .... Book  
 750 ....., Page ....., of the public records of .... County, Florida,

751 and that the time within which you may file suit to enforce your  
 752 lien is limited to 60 days from the date of service of this  
 753 notice. This .... day of ....., ...(year)....

754 Signed: ...(Owner or Attorney)...

755 The lien of any lienor upon whom such notice is served and who  
 756 fails to institute a suit to enforce his or her lien within 60  
 757 days after service of such notice shall be extinguished  
 758 automatically. The clerk shall serve, in accordance with s.  
 759 713.18, a copy of the notice of contest to the lien claimant at  
 760 the address shown in the claim of lien or most recent amendment  
 761 thereto and shall certify to such service and the date of  
 762 service on the face of the notice and record the notice. After  
 763 the clerk records the notice with the certificate of service,  
 764 the clerk must serve a copy of such notice to the lienor and to  
 765 the owner or the owner's attorney in accordance with s. 713.18.

766 Section 12. Paragraphs (d) and (e) of subsection (1) of  
 767 section 713.23, Florida Statutes, are amended to read:

768 713.23 Payment bond.—

769 (1)

770 (d) In addition, alienor who has not received payment for  
 771 furnishing his or her labor, services, or materials must, as a  
 772 condition precedent to recovery under the bond, serve a written  
 773 notice of nonpayment on ~~to~~ the contractor and a copy of the  
 774 notice on the surety. The notice must be under oath and served  
 775 during the progress of the work or thereafter, but may not be

776 served later than 90 days after the final furnishing of labor,  
 777 services, or materials by the lienor, or, with respect to rental  
 778 equipment, later than 90 days after the date the rental  
 779 equipment was on the ~~job~~ site of the improvement and available  
 780 for use. A notice of nonpayment that includes sums for retainage  
 781 must specify the portion of the amount claimed for retainage.  
 782 The required notice satisfies this condition precedent with  
 783 respect to the payment described in the notice of nonpayment,  
 784 including unpaid finance charges due under the lienor's  
 785 contract, and with respect to any other payments which become  
 786 due to the lienor after the date of the notice of nonpayment.  
 787 The time period for serving a notice of nonpayment is ~~shall be~~  
 788 measured from the last day of furnishing labor, services, or  
 789 materials by the lienor and may not be measured by other  
 790 standards, such as the issuance of a certificate of occupancy or  
 791 the issuance of a certificate of substantial completion. The  
 792 failure of a lienor to receive retainage sums not in excess of  
 793 10 percent of the value of labor, services, or materials  
 794 furnished by the lienor is not considered a nonpayment requiring  
 795 the service of the notice provided under this paragraph. If the  
 796 payment bond is not recorded before commencement of  
 797 construction, the time period for the lienor to serve a notice  
 798 of nonpayment may, at the option of the lienor, be calculated  
 799 from the date specified in this section or the date the lienor  
 800 is served a copy of the bond. However, the limitation period for

801 commencement of an action on the payment bond as established in  
 802 paragraph (e) may not be expanded. The negligent inclusion or  
 803 omission of any information in the notice of nonpayment that has  
 804 not prejudiced the contractor or surety does not constitute a  
 805 default that operates to defeat an otherwise valid bond claim. A  
 806 lienor who serves a fraudulent notice of nonpayment forfeits his  
 807 or her rights under the bond. A notice of nonpayment is  
 808 fraudulent if the lienor has willfully exaggerated the amount  
 809 unpaid, willfully included a claim for work not performed or  
 810 materials not furnished for the subject improvement, or prepared  
 811 the notice with such willful and gross negligence as to amount  
 812 to a willful exaggeration. However, a minor mistake or error in  
 813 a notice of nonpayment, or a good faith dispute as to the amount  
 814 unpaid, does not constitute a willful exaggeration that operates  
 815 to defeat an otherwise valid claim against the bond. The service  
 816 of a fraudulent notice of nonpayment is a complete defense to  
 817 the lienor's claim against the bond. The notice under this  
 818 paragraph must include the following information, current as of  
 819 the date of the notice, and must be in substantially the  
 820 following form:

821  
 822 NOTICE OF NONPAYMENT

823  
 824 To ... (name of contractor and address) ...  
 825

826 | ...(name of surety and address)...

827

828 | The undersigned lienor notifies you that:

829 | 1. The lienor has furnished ...(describe labor, services,  
830 | or materials)... for the improvement of the real property  
831 | identified as ...(property description).... The corresponding  
832 | amount unpaid to date is \$...., of which \$.... is unpaid  
833 | retainage.

834 | 2. The lienor has been paid to date the amount of \$....  
835 | for previously furnishing ...(describe labor, services, or  
836 | materials)... for this improvement.

837 | 3. The lienor expects to furnish ...(describe labor,  
838 | services, or materials)... for this improvement in the future  
839 | (if known), and the corresponding amount expected to become due  
840 | is \$.... (if known).

841

842 | I declare that I have read the foregoing Notice of Nonpayment  
843 | and that the facts stated in it are true to the best of my  
844 | knowledge and belief.

845

846 | DATED on ....., .....

847

848 | ...(signature and address of lienor)...

849

850 | STATE OF FLORIDA

851 COUNTY OF.....

852

853 The foregoing instrument was sworn to (or affirmed) and  
 854 subscribed before me by means of  physical presence or sworn to  
 855 (or affirmed) by  online notarization, this .... day of .....,  
 856 ...(year)..., by ...(name of signatory)....

857 ... (Signature of Notary Public - State of Florida)...

858 ... (Print, Type, or Stamp Commissioned Name of Notary  
 859 Public)...

860

861 Personally Known ..... OR Produced Identification .....

862

863 Type of Identification Produced

864 (e) An action for the labor, or ~~or~~ materials, or supplies may  
 865 not be instituted or prosecuted against the contractor or surety  
 866 unless both notices have been given, if required by this  
 867 section. An action may not be instituted or prosecuted against  
 868 the contractor or against the surety on the bond under this  
 869 section after 1 year from the performance of the labor or  
 870 completion of delivery of the materials and supplies. The time  
 871 period for bringing an action against the contractor or surety  
 872 on the bond is ~~shall be~~ measured from the last day of furnishing  
 873 labor, services, or materials by the lienor. The time period may  
 874 not be measured by other standards, such as the issuance of a  
 875 certificate of occupancy or the issuance of a certificate of

876 substantial completion. A contractor or the contractor's  
 877 attorney may elect to shorten the time within which an action to  
 878 enforce any claim against a payment bond provided under this  
 879 section or s. 713.245 must be commenced at any time after a  
 880 notice of nonpayment, if required, has been served for the claim  
 881 by recording in the clerk's office a notice in substantially the  
 882 following form:

883 NOTICE OF CONTEST OF CLAIM  
 884 AGAINST PAYMENT BOND

885 To: ... (Name and address of lienor) ...

886 You are notified that the undersigned contests your notice  
 887 of nonpayment, dated ....., ....., and served on the undersigned  
 888 on ....., ....., and that the time within which you may file suit  
 889 to enforce your claim is limited to 60 days after ~~from~~ the date  
 890 of service of this notice.

891 DATED on ....., .....

892 Signed: ... (Contractor or Attorney) ...

893 The claim of any lienor upon whom the notice is served and who  
 894 fails to institute a suit to enforce his or her claim against  
 895 the payment bond within 60 days after service of the notice  
 896 shall be extinguished automatically. The contractor or the  
 897 contractor's attorney shall serve a copy of the notice of  
 898 contest to the lienor at the address shown in the notice of  
 899 nonpayment or most recent amendment thereto and shall certify to  
 900 such service on the face of the notice and record the notice.

901           Section 13. Subsections (1) and (3) of section 713.24,  
 902 Florida Statutes, are amended to read:  
 903           713.24 Transfer of liens to security.—  
 904           (1) Any lien claimed under this part may be transferred,  
 905 by any person having an interest in the real property upon which  
 906 the lien is imposed or the contract under which the lien is  
 907 claimed, from such real property to other security by either:  
 908           (a) Depositing in the clerk's office a sum of money, or  
 909           (b) Filing in the clerk's office a bond executed as surety  
 910 by a surety insurer licensed to do business in this state,  
 911  
 912 either to be in an amount equal to the amount demanded in such  
 913 claim of lien, plus interest thereon at the legal rate for 3  
 914 years, plus \$5,000 ~~\$1,000~~ or 25 percent of the amount demanded  
 915 in the claim of lien, whichever is greater, to apply on any  
 916 attorney ~~attorney's~~ fees and court costs that may be taxed in  
 917 any proceeding to enforce said lien. Such deposit or bond shall  
 918 be conditioned to pay any judgment or decree which may be  
 919 rendered for the satisfaction of the lien for which such claim  
 920 of lien was recorded. Upon making such deposit or filing such  
 921 bond, the clerk shall make and record a certificate which must  
 922 include a copy of the deposit or bond used to transfer, showing  
 923 the transfer of the lien from the real property to the security  
 924 and shall mail a copy thereof together with a copy of the  
 925 deposit or bond used to transfer by registered or certified mail

926 to the lienor named in the claim of lien so transferred, at the  
927 address stated therein. Upon filing the certificate of transfer,  
928 the real property shall thereupon be released from the lien  
929 claimed, and such lien shall be transferred to said security. In  
930 the absence of allegations of privity between the lienor and the  
931 owner, and subject to any order of the court increasing the  
932 amount required for the lien transfer deposit or bond, no other  
933 judgment or decree to pay money may be entered by the court  
934 against the owner. The clerk is ~~shall be~~ entitled to a service  
935 charge for making and serving the certificate, in the amount of  
936 up to \$20, from which the clerk shall remit \$5 to the Department  
937 of Revenue for deposit into the General Revenue Fund. If the  
938 transaction involves the transfer of multiple liens, an  
939 additional charge of up to \$10 for each additional lien shall be  
940 charged, from which the clerk shall remit \$2.50 to the  
941 Department of Revenue for deposit into the General Revenue Fund.  
942 For recording the certificate and approving the bond, the clerk  
943 shall receive her or his usual statutory service charges as  
944 prescribed in s. 28.24. Any number of liens may be transferred  
945 to one such security.

946 (3) Any party having an interest in such security or the  
947 property from which the lien was transferred may at any time,  
948 and any number of times, file a complaint in chancery in the  
949 circuit court of the county where such security is deposited, or  
950 file a motion in a pending action to enforce a lien, for an

951 order to require additional security, reduction of security,  
 952 change or substitution of sureties, payment of discharge  
 953 thereof, or any other matter affecting said security. If the  
 954 court finds that the amount of the deposit or bond in excess of  
 955 the amount claimed in the claim of lien is insufficient to pay  
 956 the lienor's attorney ~~attorney's~~ fees and court costs incurred  
 957 in the action to enforce the lien, the court must increase the  
 958 amount of the cash deposit or lien transfer bond. Nothing in  
 959 this section shall be construed to vest exclusive jurisdiction  
 960 in the circuit courts over transfer bond claims for nonpayment  
 961 of an amount within the monetary jurisdiction of the county  
 962 courts.

963 Section 14. Section 713.25, Florida Statutes, is repealed.

964 Section 15. Section 713.29, Florida Statutes, is amended  
 965 to read:

966 713.29 Attorney ~~Attorney's~~ fees.—In any action brought to  
 967 enforce a lien, including a lien that has been transferred to  
 968 security, or to enforce a claim against a bond under this part,  
 969 the prevailing party is entitled to recover a reasonable fee for  
 970 the services of her or his attorney for trial and appeal or for  
 971 arbitration, in an amount to be determined by the court, which  
 972 fee must be taxed as part of the prevailing party's costs, as  
 973 allowed in equitable actions.

974 Section 16. This act shall take effect July 1, 2022.