

1                   A bill to be entitled  
2           An act relating to liens; amending s. 255.05,  
3           F.S.; revising provisions pertaining to the  
4           bond of a contractor constructing public  
5           buildings; providing for revised time periods  
6           for certain claims; revising forms for waiver  
7           of right to claim against bond; providing for  
8           written statements to the contractor with  
9           respect to the nature of labor or services  
10          performed in certain circumstances; amending s.  
11          713.01, F.S.; redefining amending s. 713.01,  
12          F.S.; redefining the terms "improve,"  
13          "improvement," "subcontractor," and  
14          "sub-subcontractor" to include reference to  
15          solid-waste removal; amending s. 713.06, F.S.;  
16          revising provisions relating to contractor's  
17          affidavit; amending s. 713.132, F.S.; revising  
18          requirements pertaining to service of notice of  
19          termination; amending s. 713.18, F.S.; revising  
20          requirements pertaining to service of  
21          documents; amending s. 713.23, F.S.; amending  
22          the timeframe within which certain actions to  
23          enforce a claim against the payment bond may  
24          commence; providing a form; creating s.  
25          713.235, F.S.; providing for waivers of right  
26          to claim against a payment bond; providing  
27          forms; amending s. 713.24, F.S.; revising the  
28          process for transferring liens to security;  
29          providing an effective date.

30  
31 Be It Enacted by the Legislature of the State of Florida:

1           Section 1. Paragraph (a) of subsection (1) and  
2 paragraphs (a), (b), and (c) of subsection (2) of section  
3 255.05, Florida Statutes, are amended, and subsection (8) is  
4 added to that section, to read:

5           255.05 Bond of contractor constructing public  
6 buildings; form; action by materialmen.--

7           (1)(a) Any person entering into a formal contract with  
8 the state or any county, city, or political subdivision  
9 thereof, or other public authority, for the construction of a  
10 public building, for the prosecution and completion of a  
11 public work, or for repairs upon a public building or public  
12 work shall be required, before commencing the work or before  
13 recommencing the work after a default or abandonment, to  
14 execute, deliver to the public owner, and record in the public  
15 records of the county where the improvement is located, a  
16 payment and performance bond with a surety insurer authorized  
17 to do business in this state as surety. The bond must state on  
18 its front page:the name, and principal business address, and  
19 phone number of the contractor, the surety, the owner of the  
20 property being improved, and, if different from the owner, the  
21 contracting public entity; the contract number assigned by the  
22 contracting public entity; and ~~of both the principal and the~~  
23 ~~surety and must contain~~ a description of the project  
24 sufficient to identify it, including, if applicable, a legal  
25 description and the street address of the property being  
26 improved, and a general description of the improvement. Such  
27 bond shall be conditioned that the contractor perform the  
28 contract in the time and manner prescribed in the contract and  
29 promptly make payments to all persons defined in s. 713.01  
30 whose claims derive directly or indirectly from the  
31 prosecution of the work provided for in the contract. Any

1 claimant may apply to the governmental entity having charge of  
2 the work for copies of the contract and bond and shall  
3 thereupon be furnished with a certified copy of the contract  
4 and bond. The claimant shall have a right of action against  
5 the contractor and surety for the amount due him or her,  
6 including unpaid finance charges due under the claimant's  
7 contract. Such action shall not involve the public authority  
8 in any expense. When such work is done for the state and the  
9 contract is for \$100,000 or less, no payment and performance  
10 bond shall be required. At the discretion of the official or  
11 board awarding such contract when such work is done for any  
12 county, city, political subdivision, or public authority, any  
13 person entering into such a contract which is for \$200,000 or  
14 less may be exempted from executing the payment and  
15 performance bond. When such work is done for the state, the  
16 director of the Department of Management Services may delegate  
17 to state agencies the authority to exempt any person entering  
18 into such a contract amounting to more than \$100,000 but less  
19 than \$200,000 from executing the payment and performance bond.  
20 In the event such exemption is granted, the officer or  
21 officials shall not be personally liable to persons suffering  
22 loss because of granting such exemption. The Department of  
23 Management Services shall maintain information on the number  
24 of requests by state agencies for delegation of authority to  
25 waive the bond requirements by agency and project number and  
26 whether any request for delegation was denied and the  
27 justification for the denial.

28       (2)(a)1. If a claimant is no longer furnishing labor,  
29 services, or materials on a project, a contractor or the  
30 contractor's agent or attorney may elect to shorten the  
31 prescribed time in this paragraph within which an action to

1 enforce any claim against a payment bond provided pursuant to  
2 this section may be commenced by recording in the clerk's  
3 office a notice in substantially the following form:

4  
5 NOTICE OF CONTEST OF CLAIM AGAINST PAYMENT BOND

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

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

12  
13 DATED on ....., .....

14  
15 Signed:...(Contractor or Attorney)...

16  
17 The claim of any claimant upon whom such notice is served and  
18 who fails to institute a suit to enforce his or her claim  
19 against the payment bond within 60 days after service of such  
20 notice shall be extinguished automatically. The clerk shall  
21 mail a copy of the notice of contest to the claimant at the  
22 address shown in the notice of nonpayment or most recent  
23 amendment thereto and shall certify to such service on the  
24 face of such notice and record the notice. Service is complete  
25 upon mailing.

26 2. A claimant, except a laborer, who is not in privity  
27 with the contractor shall, before commencing or not later than  
28 45 days after commencing to furnish labor, materials, or  
29 supplies for the prosecution of the work, furnish the  
30 contractor with a notice that he or she intends to look to the  
31 bond for protection. A claimant who is not in privity with the

1 contractor and who has not received payment for his or her  
2 labor, materials, or supplies shall deliver to the contractor  
3 and to the surety written notice of the performance of the  
4 labor or delivery of the materials or supplies and of the  
5 nonpayment. The notice of nonpayment may be served at any time  
6 during the progress of the work or thereafter but not before  
7 45 days after the first furnishing of labor, services, or  
8 materials, and not later than 90 days after the final  
9 furnishing of the labor, services, or materials by the  
10 claimant or, with respect to rental equipment, not later than  
11 90 days after the date that the rental equipment was last on  
12 the job site available for use. No action for the labor,  
13 materials, or supplies may be instituted against the  
14 contractor or the surety unless both notices have been given.  
15 An ~~No~~ action, except for an action exclusively for recovery of  
16 retainage, must ~~shall~~ be instituted against the contractor or  
17 the surety on the payment bond or the payment provisions of a  
18 combined payment and performance bond ~~within~~ ~~after~~ 1 year  
19 ~~after~~ ~~from~~ the performance of the labor or completion of  
20 delivery of the materials or supplies. An action exclusively  
21 for recovery of retainage must be instituted against the  
22 contractor or the surety within 1 year after the performance  
23 of the labor or completion of delivery of the materials or  
24 supplies, or within 90 days after the contractor's receipt of  
25 final payment (or the payment estimate containing the owner's  
26 final reconciliation of quantities if no further payment is  
27 earned and due as a result of deductive adjustments) by the  
28 contractor or surety, whichever comes last.A claimant may not  
29 waive in advance his or her right to bring an action under the  
30 bond against the surety. In any action brought to enforce a  
31 claim against a payment bond under this section, the

1 prevailing party is entitled to recover a reasonable fee for  
 2 the services of his or her attorney for trial and appeal or  
 3 for arbitration, in an amount to be determined by the court,  
 4 which fee must be taxed as part of the prevailing party's  
 5 costs, as allowed in equitable actions.

6 (b) When a person is required to execute a waiver of  
 7 his or her right to make a claim against the payment bond in  
 8 exchange for, or to induce payment of, a progress payment, the  
 9 waiver may be in substantially the following form:

10  
 11 WAIVER OF RIGHT TO CLAIM  
 12 AGAINST THE PAYMENT BOND  
 13 (PROGRESS PAYMENT)  
 14

15 The undersigned, in consideration of the sum of \$....,  
 16 hereby waives its right to claim against the payment bond for  
 17 labor, services, or materials furnished through ...(insert  
 18 date)... to ...(insert the name of your customer)... on the  
 19 job of ...(insert the name of the owner)..., for improvements  
 20 to the following described project:

21  
 22 (description of project)  
 23

24 This waiver does not cover any retention or any labor,  
 25 services, or materials furnished after the date specified.

26  
 27 DATED ON ....., 19....

28 ...(Claimant)...

29 By:.....  
 30  
 31

1 (c) When a person is required to execute a waiver of  
2 his or her right to make a claim against the payment bond, in  
3 exchange for, or to induce payment of, the final payment, the  
4 waiver may be in substantially the following form:

5

6 WAIVER OF RIGHT TO CLAIM  
7 AGAINST THE PAYMENT BOND (FINAL PAYMENT)

8

9 The undersigned, in consideration of the final payment  
10 in the amount of \$...., hereby waives its right to claim  
11 against the payment bond for labor, services, or materials  
12 furnished to ...(insert the name of your customer)... on the  
13 job of ...(insert the name of the owner)..., for improvements  
14 to the following described project:

15

16 (description of project)

17

18 DATED ON ....., 19....

19

...(Claimant)...

20

By:.....

21

22 (8) When a contractor has furnished a payment bond  
23 pursuant to this section, he or she may, when the state,  
24 county, municipality, political subdivision, or other public  
25 authority makes any payment to the contractor or directly to a  
26 claimant, serve a written demand on any claimant who is not in  
27 privity with the contractor for a written statement under oath  
28 of his or her account showing the nature of the labor or  
29 services performed and to be performed, if any; the materials  
30 furnished; the materials to be furnished, if known; the amount  
31 paid on account to date; the amount due; and the amount to

1 become due, if known, as of the date of the statement by the  
2 claimant. Any such demand to a claimant who is not in privity  
3 with the contractor must be served on the claimant at the  
4 address and to the attention of any person who is designated  
5 to receive the demand in the notice to contractor served by  
6 the claimant. The failure or refusal to furnish the statement  
7 does not deprive the claimant of his or her rights under the  
8 bond if the demand is not served at the address of the  
9 claimant or directed to the attention of the person designated  
10 to receive the demand in the notice to contractor. The failure  
11 to furnish the statement within 30 days after the demand, or  
12 the furnishing of a false or fraudulent statement, deprives  
13 the claimant who fails to furnish the statement, or who  
14 furnishes the false or fraudulent statement, of his or her  
15 rights under the bond. If the contractor serves more than one  
16 demand for statement of account on a claimant and none of the  
17 information regarding the account has changed since the  
18 claimants last response to a demand, the failure or refusal to  
19 furnish such statement does not deprive the claimant of his or  
20 her rights under the bond. The negligent inclusion or omission  
21 of any information deprives the claimant of his or her rights  
22 under the bond to the extent that the contractor can  
23 demonstrate prejudice from such act or omission by the  
24 claimant. The failure to furnish a response to a demand for  
25 statement of account does not affect the validity of any claim  
26 on the bond being enforced in a lawsuit filed before the date  
27 the demand for statement of account is received by the  
28 claimant.

29 Section 2. Subsections (12), (13), (26), and (27) of  
30 section 713.01, Florida Statutes, are amended to read:

31 713.01 Definitions.--As used in this part, the term:



1           (12) "Improve" means build, erect, place, make, alter,  
2 remove, repair, or demolish any improvement over, upon,  
3 connected with, or beneath the surface of real property, or  
4 excavate any land, or furnish materials for any of these  
5 purposes, or perform any labor or services upon the  
6 improvements, including the furnishing of carpet or rugs or  
7 appliances that are permanently affixed to the real property  
8 and final construction cleanup to prepare a structure for  
9 occupancy; or perform any labor or services or furnish any  
10 materials in grading, seeding, sodding, or planting for  
11 landscaping purposes, including the furnishing of trees,  
12 shrubs, bushes, or plants that are planted on the real  
13 property, or in equipping any improvement with fixtures or  
14 permanent apparatus or provide any solid-waste collection or  
15 disposal on the site of the improvement.

16           (13) "Improvement" means any building, structure,  
17 construction, demolition, excavation, solid-waste removal,  
18 landscaping, or any part thereof existing, built, erected,  
19 placed, made, or done on land or other real property for its  
20 permanent benefit.

21           (26) "Subcontractor" means a person other than a  
22 materialman or laborer who enters into a contract with a  
23 contractor for the performance of any part of such  
24 contractor's contract, including the removal of solid waste  
25 from the real property.

26           (27) "Sub-subcontractor" means a person other than a  
27 materialman or laborer who enters into a contract with a  
28 subcontractor for the performance of any part of such  
29 subcontractor's contract, including the removal of solid waste  
30 from the real property.

31

1           Section 3. Paragraph (a) of subsection (2), and  
2 paragraph (d) of subsection (3) of section 713.06, Florida  
3 Statutes, are amended to read:

4           713.06 Liens of persons not in privity; proper  
5 payments.--

6           (2)(a) All lienors under this section, except  
7 laborers, as a prerequisite to perfecting a lien under this  
8 chapter and recording a claim of lien, must serve a notice on  
9 the owner setting forth the lienor's name and address, a  
10 description sufficient for identification of the real  
11 property, and the nature of the services or materials  
12 furnished or to be furnished. A sub-subcontractor or a  
13 materialman to a subcontractor must serve a copy of the notice  
14 on the contractor as a prerequisite to perfecting a lien under  
15 this chapter and recording a claim of lien. A materialman to a  
16 sub-subcontractor must serve a copy of the notice to owner on  
17 the contractor as a prerequisite to perfecting a lien under  
18 this chapter and recording a claim of lien. A materialman to a  
19 sub-subcontractor shall serve the notice to owner on the  
20 subcontractor if the materialman knows the name and address of  
21 the subcontractor. The notice must be served before  
22 commencing, or not later than 45 days after commencing, to  
23 furnish his or her labor, services, or materials, but, in any  
24 event, before the date of the owner's disbursement of the  
25 final payment after the contractor has furnished the affidavit  
26 under subparagraph (3)(d)1. The notice must be served  
27 regardless of the method of payments by the owner, whether  
28 proper or improper, and does not give to the lienor serving  
29 the notice any priority over other lienors in the same  
30 category; and the failure to serve the notice, or to timely  
31 serve it, is a complete defense to enforcement of a lien by

1 any person. The serving of the notice does not dispense with  
2 recording the claim of lien. The notice is not a lien, cloud,  
3 or encumbrance on the real property nor actual or constructive  
4 notice of any of them.

5 (3) The owner may make proper payments on the direct  
6 contract as to lienors under this section, in the following  
7 manner:

8 (d) When the final payment under a direct contract  
9 becomes due the contractor:

10 1. The contractor shall give to the owner an affidavit  
11 stating, if that be the fact, that all lienors under his or  
12 her direct contract who have timely served a notice to owner  
13 on the owner and the contractor have been paid in full or, if  
14 the fact be otherwise, showing the name of each such lienor  
15 who has not been paid in full and the amount due or to become  
16 due each for labor, services, or materials furnished. The  
17 contractor shall have no lien or right of action against the  
18 owner for labor, services, or materials furnished under the  
19 direct contract while in default for not giving the owner the  
20 affidavit; however, the negligent inclusion or omission of any  
21 information in the affidavit which has not prejudiced the  
22 owner does not constitute a default that operates to defeat an  
23 otherwise valid lien. The contractor shall execute the  
24 affidavit and deliver it to the owner at least 5 days before  
25 instituting an action as a prerequisite to the institution of  
26 any action to enforce his or her lien under this chapter, even  
27 if the final payment has not become due because the contract  
28 is terminated for a reason other than completion and  
29 regardless of whether the contractor has any lienors working  
30 under him or her or not.

31

1           2. If the contractor's affidavit required in this  
2 subsection recites any outstanding bills for labor, services,  
3 or materials, the owner may, after giving the contractor at  
4 least 10 days' written notice, pay such bills in full direct  
5 to the person or firm to which they are due, if the balance  
6 due on a direct contract at the time the affidavit is given is  
7 sufficient to pay them and lienors giving notice, and shall  
8 deduct the amounts so paid from the balance due the  
9 contractor. Lienors listed in said affidavit not giving  
10 notice, whose 45-day notice time has not expired, shall be  
11 paid in full or pro rata, as appropriate, from any balance  
12 then remaining due the contractor; but no lienor whose notice  
13 time has expired shall be paid by the owner or by any other  
14 person except the person with whom that lienor has a contract.

15           3. If the balance due is not sufficient to pay in full  
16 all lienors listed in the affidavit and entitled to payment  
17 from the owner under this part and other lienors giving  
18 notice, the owner shall pay no money to anyone until such time  
19 as the contractor has furnished him or her with the  
20 difference; however, if the contractor fails to furnish the  
21 difference within 10 days from delivery of the affidavit or  
22 notice from the owner to the contractor to furnish the  
23 affidavit, the owner shall determine the amount due each  
24 lienor and shall disburse to them the amounts due from him or  
25 her on a direct contract in accordance with the procedure  
26 established by subsection (4).

27           4. The owner shall have the right to rely on the  
28 contractor's affidavit given under this paragraph in making  
29 the final payment, unless there are lienors giving notice who  
30 are not listed in the affidavit. If there are lienors giving  
31 notice who are not so listed, the owner may pay such lienors

1 and any persons listed in the affidavit that are entitled to  
2 be paid by the owner under subparagraph (d)2. and shall  
3 thereupon be discharged of any further responsibility under  
4 the direct contract, except for any balance that may be due to  
5 the contractor.

6           5. The owner shall retain the final payment due under  
7 the direct contract that shall not be disbursed until the  
8 contractor's affidavit under subparagraph (d)1. has been  
9 furnished to the owner.

10           6. When final payment has become due to the contractor  
11 and the owner fails to withhold as required by subparagraph  
12 (d)5., the property improved shall be subject to the full  
13 amount of all valid liens of which the owner has notice at the  
14 time the contractor furnishes his or her affidavit.

15           Section 4. Subsection (1) of section 713.132, Florida  
16 Statutes, is amended to read:

17           713.132 Notice of termination.--

18           (1) An owner may terminate the period of effectiveness  
19 of a notice of commencement by executing, swearing to, and  
20 recording a notice of termination that contains:

21           (a) The same information as the notice of  
22 commencement;

23           (b) The recording office document book and page  
24 reference numbers and date of the notice of commencement;

25           (c) A statement of the date as of which the notice of  
26 commencement is terminated, which date may not be earlier than  
27 30 days after the notice of termination is recorded;

28           (d) A statement specifying that the notice applies to  
29 all the real property subject to the notice of commencement or  
30 specifying the portion of such real property to which it  
31 applies;

1 (e) A statement that all lienors have been paid in  
2 full; and

3 (f) A statement that the owner has, before recording  
4 the notice of termination, served a copy of the notice of  
5 termination on the contractor and on each lienor who has given  
6 notice. The owner is not required to serve a copy of the  
7 notice of termination on any lienor who has executed a waiver  
8 and release of lien upon final payment in accordance with s.  
9 713.20.

10 Section 5. Section 713.18, Florida Statutes, is  
11 amended to read:

12 713.18 Manner of serving notices and other  
13 instruments.--

14 (1) Service of notices, claims of lien, affidavits,  
15 assignments, and other instruments permitted or required under  
16 this part, or copies thereof when so permitted or required,  
17 unless otherwise specifically provided in this part, must be  
18 made by one of the following methods:

19 (a) By actual delivery to the person to be served; or,  
20 if a partnership, to one of the partners; or, if a  
21 corporation, to an officer, director, managing agent, or  
22 business agent thereof.

23 (b) By mailing the same, postage prepaid, by  
24 registered or certified mail to the person to be served at her  
25 or his last known address and evidence of delivery. If a  
26 notice to owner is mailed pursuant to this paragraph within 40  
27 days after the date the lienor first furnishes labor,  
28 services, or materials, service of that notice is effective as  
29 of the date of mailing if the person who served the notice  
30 maintains a registered or certified mail log that shows the  
31 date the notice was served, the registered or certified mail

1 number issued by the United States Postal Service, the name  
2 and address of the person served, and the date stamp of the  
3 United States Postal Service confirming the date of mailing.

4 If an instrument served pursuant to this paragraph ~~by this~~  
5 ~~method~~ to the last address shown in the notice of commencement  
6 or any amendment thereto or, in the absence of a notice of  
7 commencement, to the last address shown in the building permit  
8 application is not received, but is returned by the United  
9 States Postal Service as being "refused," "moved, not  
10 forwardable," or "unclaimed," or is otherwise not delivered or  
11 deliverable through no fault of the person serving the item,  
12 then service is effective as of the date of mailing.

13 (c) If neither of the foregoing methods can be  
14 accomplished, by posting on the premises.

15 (2) If the real property is owned by more than one  
16 person, a lienor may serve any notices or other papers under  
17 this part on any one of such owners, and such notice is deemed  
18 notice to all owners.

19 (3) Service of notices or copies thereof, permitted or  
20 required under this part, may be made by facsimile  
21 transmission when the person being served has listed that  
22 person's facsimile phone number in the Notice of Commencement.  
23 ~~The owner must be served with the Notice to Owner in the~~  
24 ~~manner specified in subsection (2) of this section.~~ The  
25 lienor's facsimile confirmation sheet with the correct  
26 facsimile phone number shall be proof of the date and time the  
27 notice was served.

28 Section 6. Paragraph (e) of subsection (1) of section  
29 713.23, Florida Statutes, is amended to read:

30 713.23 Payment bond.--

31 (1)

1 (e) No action for the labor or materials or supplies  
 2 may be instituted or prosecuted against the contractor or  
 3 surety unless both notices have been given. No action shall  
 4 be instituted or prosecuted against the contractor or against  
 5 the surety on the bond under this section after 1 year from  
 6 the performance of the labor or completion of delivery of the  
 7 materials and supplies. A contractor or the contractor's agent  
 8 or attorney may elect to shorten the prescribed time within  
 9 which an action to enforce any claim against a payment bond  
 10 provided pursuant to this section or s. 713.245 may be  
 11 commenced by recording in the clerk's office a notice in  
 12 substantially the following form:

13 NOTICE OF CONTEST OF CLAIM AGAINST PAYMENT BOND

14  
 15 To: ..... (Name and address of lienor).....

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

21  
 22 DATED on ....., .....

23  
 24 Signed: ... (Contractor or Attorney)...

25  
 26 The claim of any lienor upon whom such notice is served and  
 27 who fails to institute a suit to enforce his or her claim  
 28 against the payment bond within 60 days after service of such  
 29 notice shall be extinguished automatically. The clerk shall  
 30 mail a copy of the notice of contest to the lienor at the  
 31 address shown in the notice of nonpayment or most recent



1 amendment thereto and shall certify to such service on the  
2 face of such notice and record the notice. Service is complete  
3 upon mailing.

4 Section 7. Section 713.235, Florida Statutes, is  
5 created to read:

6 713.235 Waivers of right to claim against payment  
7 bond; forms.--

8 (1) When a person is required to execute a waiver of  
9 his or her right to make a claim against a payment bond  
10 provided pursuant to s. 713.23 or s. 713.245, in exchange for,  
11 or to induce payment of, a progress payment, the waiver may be  
12 in substantially the following form:

13 WAIVER OF RIGHT TO CLAIM  
14 AGAINST THE PAYMENT BOND  
15 (PROGRESS PAYMENT)

16 The undersigned, in consideration of the sum of  
17 \$..... hereby waives its right to claim against the  
18 payment bond for labor, services, or materials furnished  
19 through ... (insert date)..., to ... (insert the name of your  
20 customer)... on the job of ... (insert the name of the  
21 owner)..., for improvements to the following described  
22 project:

23 (description of project)

24  
25 This waiver does not cover any retention or any labor,  
26 services, or materials furnished after the date specified.

27  
28 DATED on .....

29 .....(Lienor).....  
30 By:.....

31



1           (1) Any lien claimed under this part may be  
2 transferred, by any person having an interest in the real  
3 property upon which the lien is imposed or the contract under  
4 which the lien is claimed, from such real property to other  
5 security by either:

6           (a) Depositing in the clerk's office a sum of money,  
7 or

8           (b) Filing in the clerk's office a bond executed as  
9 surety by a surety insurer licensed to do business in this  
10 state,

11  
12 either to be in an amount equal to the amount demanded in such  
13 claim of lien, plus interest thereon at the legal rate for 3  
14 years, plus \$1,000 or 25 percent of the amount demanded in the  
15 claim of lien, whichever is greater, \$500 to apply on any  
16 attorney's fees and court costs that ~~which~~ may be taxed in any  
17 proceeding to enforce said lien. Such deposit or bond shall be  
18 conditioned to pay any judgment or decree which may be  
19 rendered for the satisfaction of the lien for which such claim  
20 of lien was recorded. Upon making such deposit or filing such  
21 bond, the clerk shall make and record a certificate showing  
22 the transfer of the lien from the real property to the  
23 security and shall mail a copy thereof by registered or  
24 certified mail to the lienor named in the claim of lien so  
25 transferred, at the address stated therein. Upon filing the  
26 certificate of transfer, the real property shall thereupon be  
27 released from the lien claimed, and such lien shall be  
28 transferred to said security. In the absence of allegations of  
29 privity between the lienor and the owner, and subject to any  
30 order of the court increasing the amount required for the lien  
31 transfer deposit or bond, no other judgment or decree to pay

1 money may be entered by the court against the owner.The clerk  
2 shall be entitled to a fee for making and serving the  
3 certificate, in the sum of \$10. If the transaction involves  
4 the transfer of multiple liens, an additional charge of \$5 for  
5 each additional lien shall be charged. For recording the  
6 certificate and approving the bond, the clerk shall receive  
7 her or his usual statutory service charges as prescribed in s.  
8 28.24. Any number of liens may be transferred to one such  
9 security.

10 (2) Any excess of the security over the aggregate  
11 amount of any judgments or decrees rendered plus costs  
12 actually taxed shall be repaid to the party filing the same or  
13 her or his successor in interest. Any deposit of money shall  
14 be considered as paid into court and shall be subject to the  
15 provisions of law relative to payments of money into court and  
16 the disposition of same.

17 (3) Any party having an interest in such security or  
18 the property from which the lien was transferred may at any  
19 time, and any number of times, file a complaint in chancery in  
20 the circuit court of the county where such security is  
21 deposited, or file a motion in a pending action to enforce a  
22 lien, for an order to require additional security, reduction  
23 of security, change or substitution of sureties, payment of  
24 discharge thereof, or any other matter affecting said  
25 security. If the court finds that the amount of the deposit or  
26 bond in excess of the amount claimed in the claim of lien is  
27 insufficient to pay the lienor's attorney's fees and court  
28 costs incurred in the action to enforce the lien, the court  
29 must increase the amount of the cash deposit or lien transfer  
30 bond.

31

1           (4) If a ~~no~~ proceeding to enforce a transferred lien  
2 is not ~~shall be~~ commenced within the time specified in s.  
3 713.22 or if it appears that the transferred lien has been  
4 satisfied of record, the clerk shall return said security upon  
5 request of the person depositing or filing the same, or the  
6 insurer.

7           Section 9. This act shall take effect July 1, 1998.

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