

1
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:

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

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

(description of project)

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

DATED ON, 19....

...(Claimant)...

By:.....

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 (2) When a person is required to execute a waiver of
2 his or her right to make a claim against a payment bond
3 provided pursuant to s. 713.23 or s. 713.245, in exchange for,
4 or to induce payment of, the final payment, the waiver may be
5 in substantially the following form:

6 WAIVER OF RIGHT TO CLAIM

7 AGAINST THE PAYMENT BOND (FINAL PAYMENT)

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

14
15 (description of project)

16
17 DATED on

18 (Lienor).....

19 By:.....

20 (3) A person may not require a claimant to furnish a
21 waiver that is different from the forms in subsections (1) and
22 (2).

23 (4) A person who executes a waiver in exchange for a
24 check may condition the waiver on payment of the check.

25 (5) A waiver that is not substantially similar to the
26 forms in this section is enforceable in accordance with its
27 terms.

28 Section 8. Section 713.24, Florida Statutes, is
29 amended to read:

30 713.24 Transfer of liens to security.--

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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