

CHAMBER ACTION

1 The Justice Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to construction contracting; amending s.  
7 255.05, F.S.; making certain restrictions in bonds issued  
8 for public works projects unenforceable; amending s.  
9 489.118, F.S.; postponing a date for submitting an  
10 application for a certificate as a registered contractor;  
11 amending ss. 489.129 and 489.533, F.S.; increasing an  
12 administrative fine under certain disciplinary proceeding  
13 provisions; amending s. 713.015, F.S.; revising form  
14 criteria for a direct contract provision; preserving lien  
15 and bond rights of certain persons; specifying  
16 nonapplication to certain contractors or construction  
17 professionals; amending s. 713.02, F.S.; protecting the  
18 rights of certain persons to enforce certain contract,  
19 lien, or bond remedies or contractual obligations under  
20 certain circumstances; precluding certain defenses;  
21 amending s. 713.04, F.S.; revising certain final payment  
22 requirements; amending s. 713.08, F.S.; requiring a claim  
23 of lien to be served on an owner; amending s. 713.13,

24 F.S.; revising provisions authorizing use of certain  
 25 payment bonds to transfer certain recorded liens;  
 26 specifying application of certain notice requirements to  
 27 certain claims; revising time limits for serving certain  
 28 required notices; amending s. 713.135, F.S.; revising  
 29 certain notice of commencement and applicability of lien  
 30 requirements for certain authorities issuing building  
 31 permits; prohibiting private providers performing  
 32 inspection services from performing or approving certain  
 33 inspections under certain circumstances; increasing a  
 34 threshold amount for certain nonapplication; prohibiting  
 35 issuing authorities or building officials from requiring  
 36 recordation of a notice of commencement for certain  
 37 purposes; authorizing authorities issuing building permits  
 38 to accept permit applications electronically; requiring an  
 39 electronic submission statement on the application;  
 40 requiring provision of Internet access; amending s.  
 41 713.23, F.S.; clarifying provisions relating to payment  
 42 bonds; amending s. 713.24, F.S.; providing construction  
 43 to preserve county court jurisdiction over certain  
 44 transfer bond claims for nonpayment; preserving certain  
 45 lien rights when filing a transfer bond after commencing  
 46 certain lien enforcement proceedings; amending s. 713.345,  
 47 F.S.; revising criteria for certain criminal penalties for  
 48 misapplication of construction funds; amending s.  
 49 713.3471, F.S.; revising a provision requiring a lender to  
 50 provide notice to a property owner when making a  
 51 disbursement on a construction loan secured by residential

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52 |       property; specifying nonapplication; providing an  
53 |       effective date.

54 |

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

56 |

57 |       Section 1. Paragraph (a) of subsection (1) of section  
58 | 255.05, Florida Statutes, is amended to read:

59 |       255.05 Bond of contractor constructing public buildings;  
60 | form; action by materialmen.--

61 |       (1)(a) Any person entering into a formal contract with the  
62 | state or any county, city, or political subdivision thereof, or  
63 | other public authority, for the construction of a public  
64 | building, for the prosecution and completion of a public work,  
65 | or for repairs upon a public building or public work shall be  
66 | required, before commencing the work or before recommencing the  
67 | work after a default or abandonment, to execute, deliver to the  
68 | public owner, and record in the public records of the county  
69 | where the improvement is located, a payment and performance bond  
70 | with a surety insurer authorized to do business in this state as  
71 | surety. A public entity may not require a contractor to secure a  
72 | surety bond under this section from a specific agent or bonding  
73 | company. The bond must state on its front page: the name,  
74 | principal business address, and phone number of the contractor,  
75 | the surety, the owner of the property being improved, and, if  
76 | different from the owner, the contracting public entity; the  
77 | contract number assigned by the contracting public entity; and a  
78 | description of the project sufficient to identify it, such as a  
79 | legal description or the street address of the property being

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80 improved, and a general description of the improvement. Such  
81 bond shall be conditioned upon the contractor's performance of  
82 the construction work in the time and manner prescribed in the  
83 contract and promptly making payments to all persons defined in  
84 s. 713.01 who furnish labor, services, or materials for the  
85 prosecution of the work provided for in the contract. Any  
86 claimant may apply to the governmental entity having charge of  
87 the work for copies of the contract and bond and shall thereupon  
88 be furnished with a certified copy of the contract and bond. The  
89 claimant shall have a right of action against the contractor and  
90 surety for the amount due him or her, including unpaid finance  
91 charges due under the claimant's contract. Such action shall not  
92 involve the public authority in any expense. When such work is  
93 done for the state and the contract is for \$100,000 or less, no  
94 payment and performance bond shall be required. At the  
95 discretion of the official or board awarding such contract when  
96 such work is done for any county, city, political subdivision,  
97 or public authority, any person entering into such a contract  
98 which is for \$200,000 or less may be exempted from executing the  
99 payment and performance bond. When such work is done for the  
100 state, the Secretary of the Department of Management Services  
101 may delegate to state agencies the authority to exempt any  
102 person entering into such a contract amounting to more than  
103 \$100,000 but less than \$200,000 from executing the payment and  
104 performance bond. In the event such exemption is granted, the  
105 officer or officials shall not be personally liable to persons  
106 suffering loss because of granting such exemption. The  
107 Department of Management Services shall maintain information on

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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108 | the number of requests by state agencies for delegation of  
 109 | authority to waive the bond requirements by agency and project  
 110 | number and whether any request for delegation was denied and the  
 111 | justification for the denial. Any provision in a payment bond  
 112 | furnished for public work contracts as provided by this  
 113 | subsection which restricts the classes of persons as defined in  
 114 | s. 713.01 protected by the bond or the venue of any proceeding  
 115 | relating to such bond is unenforceable.

116 |         Section 2. Section 489.118, Florida Statutes, is amended  
 117 | to read:

118 |         489.118 Certification of registered contractors;  
 119 | grandfathering provisions.--The board shall, upon receipt of a  
 120 | completed application and appropriate fee, issue a certificate  
 121 | in the appropriate category to any contractor registered under  
 122 | this part who makes application to the board and can show that  
 123 | he or she meets each of the following requirements:

124 |         (1) Currently holds a valid registered local license in  
 125 | one of the contractor categories defined in s. 489.105(3)(a)-  
 126 | (p).

127 |         (2) Has, for that category, passed a written examination  
 128 | that the board finds to be substantially similar to the  
 129 | examination required to be licensed as a certified contractor  
 130 | under this part. For purposes of this subsection, a written,  
 131 | proctored examination such as that produced by the National  
 132 | Assessment Institute, Block and Associates, NAI/Block, Experior  
 133 | Assessments, Professional Testing, Inc., or Assessment Systems,  
 134 | Inc., shall be considered to be substantially similar to the  
 135 | examination required to be licensed as a certified contractor.

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136 The board may not impose or make any requirements regarding the  
137 nature or content of these cited examinations.

138 (3) Has at least 5 years of experience as a contractor in  
139 that contracting category, or as an inspector or building  
140 administrator with oversight over that category, at the time of  
141 application. For contractors, only time periods in which the  
142 contractor license is active and the contractor is not on  
143 probation shall count toward the 5 years required by this  
144 subsection.

145 (4) Has not had his or her contractor's license revoked at  
146 any time, had his or her contractor's license suspended within  
147 the last 5 years, or been assessed a fine in excess of \$500  
148 within the last 5 years.

149 (5) Is in compliance with the insurance and financial  
150 responsibility requirements in s. 489.115(5).

151  
152 Applicants wishing to obtain a certificate pursuant to this  
153 section must make application by November 1, 2005 ~~2004~~.

154 Section 3. Subsection (1) of section 489.129, Florida  
155 Statutes, is amended to read:

156 489.129 Disciplinary proceedings.--

157 (1) The board may take any of the following actions  
158 against any certificateholder or registrant: place on probation  
159 or reprimand the licensee, revoke, suspend, or deny the issuance  
160 or renewal of the certificate, registration, or certificate of  
161 authority, require financial restitution to a consumer for  
162 financial harm directly related to a violation of a provision of  
163 this part, impose an administrative fine not to exceed \$10,000

164 ~~\$5,000~~ per violation, require continuing education, or assess  
 165 costs associated with investigation and prosecution, if the  
 166 contractor, financially responsible officer, or business  
 167 organization for which the contractor is a primary qualifying  
 168 agent, a financially responsible officer, or a secondary  
 169 qualifying agent responsible under s. 489.1195 is found guilty  
 170 of any of the following acts:

171 (a) Obtaining a certificate, registration, or certificate  
 172 of authority by fraud or misrepresentation.

173 (b) Being convicted or found guilty of, or entering a plea  
 174 of nolo contendere to, regardless of adjudication, a crime in  
 175 any jurisdiction which directly relates to the practice of  
 176 contracting or the ability to practice contracting.

177 (c) Violating any provision of chapter 455.

178 (d) Performing any act which assists a person or entity in  
 179 engaging in the prohibited uncertified and unregistered practice  
 180 of contracting, if the certificateholder or registrant knows or  
 181 has reasonable grounds to know that the person or entity was  
 182 uncertified and unregistered.

183 (e) Knowingly combining or conspiring with an uncertified  
 184 or unregistered person by allowing his or her certificate,  
 185 registration, or certificate of authority to be used by the  
 186 uncertified or unregistered person with intent to evade the  
 187 provisions of this part. When a certificateholder or registrant  
 188 allows his or her certificate or registration to be used by one  
 189 or more business organizations without having any active  
 190 participation in the operations, management, or control of such

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191 business organizations, such act constitutes prima facie  
192 evidence of an intent to evade the provisions of this part.

193 (f) Acting in the capacity of a contractor under any  
194 certificate or registration issued hereunder except in the name  
195 of the certificateholder or registrant as set forth on the  
196 issued certificate or registration, or in accordance with the  
197 personnel of the certificateholder or registrant as set forth in  
198 the application for the certificate or registration, or as later  
199 changed as provided in this part.

200 (g) Committing mismanagement or misconduct in the practice  
201 of contracting that causes financial harm to a customer.

202 Financial mismanagement or misconduct occurs when:

203 1. Valid liens have been recorded against the property of  
204 a contractor's customer for supplies or services ordered by the  
205 contractor for the customer's job; the contractor has received  
206 funds from the customer to pay for the supplies or services; and  
207 the contractor has not had the liens removed from the property,  
208 by payment or by bond, within 75 days after the date of such  
209 liens;

210 2. The contractor has abandoned a customer's job and the  
211 percentage of completion is less than the percentage of the  
212 total contract price paid to the contractor as of the time of  
213 abandonment, unless the contractor is entitled to retain such  
214 funds under the terms of the contract or refunds the excess  
215 funds within 30 days after the date the job is abandoned; or

216 3. The contractor's job has been completed, and it is  
217 shown that the customer has had to pay more for the contracted  
218 job than the original contract price, as adjusted for subsequent



219 | change orders, unless such increase in cost was the result of  
 220 | circumstances beyond the control of the contractor, was the  
 221 | result of circumstances caused by the customer, or was otherwise  
 222 | permitted by the terms of the contract between the contractor  
 223 | and the customer.

224 |       (h) Being disciplined by any municipality or county for an  
 225 | act or violation of this part.

226 |       (i) Failing in any material respect to comply with the  
 227 | provisions of this part or violating a rule or lawful order of  
 228 | the board.

229 |       (j) Abandoning a construction project in which the  
 230 | contractor is engaged or under contract as a contractor. A  
 231 | project may be presumed abandoned after 90 days if the  
 232 | contractor terminates the project without just cause or without  
 233 | proper notification to the owner, including the reason for  
 234 | termination, or fails to perform work without just cause for 90  
 235 | consecutive days.

236 |       (k) Signing a statement with respect to a project or  
 237 | contract falsely indicating that the work is bonded; falsely  
 238 | indicating that payment has been made for all subcontracted  
 239 | work, labor, and materials which results in a financial loss to  
 240 | the owner, purchaser, or contractor; or falsely indicating that  
 241 | workers' compensation and public liability insurance are  
 242 | provided.

243 |       (l) Committing fraud or deceit in the practice of  
 244 | contracting.

245 |       (m) Committing incompetency or misconduct in the practice  
 246 | of contracting.

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247 (n) Committing gross negligence, repeated negligence, or  
 248 negligence resulting in a significant danger to life or  
 249 property.

250 (o) Proceeding on any job without obtaining applicable  
 251 local building department permits and inspections.

252 (p) Intimidating, threatening, coercing, or otherwise  
 253 discouraging the service of a notice to owner under part I of  
 254 chapter 713 or a notice to contractor under chapter 255 or part  
 255 I of chapter 713.

256 (q) Failing to satisfy within a reasonable time, the terms  
 257 of a civil judgment obtained against the licensee, or the  
 258 business organization qualified by the licensee, relating to the  
 259 practice of the licensee's profession.

260  
 261 For the purposes of this subsection, construction is considered  
 262 to be commenced when the contract is executed and the contractor  
 263 has accepted funds from the customer or lender. A contractor  
 264 does not commit a violation of this subsection when the  
 265 contractor relies on a building code interpretation rendered by  
 266 a building official or person authorized by s. 553.80 to enforce  
 267 the building code, absent a finding of fraud or deceit in the  
 268 practice of contracting, or gross negligence, repeated  
 269 negligence, or negligence resulting in a significant danger to  
 270 life or property on the part of the building official, in a  
 271 proceeding under chapter 120.

272 Section 4. Paragraph (c) of subsection (2) of section  
 273 489.533, Florida Statutes, is amended to read:

274 489.533 Disciplinary proceedings.--

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275 (2) When the board finds any applicant, contractor, or  
 276 business organization for which the contractor is a primary  
 277 qualifying agent or secondary qualifying agent responsible under  
 278 s. 489.522 guilty of any of the grounds set forth in subsection  
 279 (1), it may enter an order imposing one or more of the following  
 280 penalties:

281 (c) Imposition of an administrative fine not to exceed  
 282 \$10,000 ~~\$5,000~~ for each count or separate offense.

283 Section 5. Section 713.015, Florida Statutes, is amended  
 284 to read:

285 713.015 Mandatory provisions for direct contracts.--Any  
 286 direct contract between an owner and a contractor, related to  
 287 improvements to real property consisting of single or multiple  
 288 family dwellings up to and including four units, must contain  
 289 the following provision printed in no less than 14-point ~~18-~~  
 290 ~~point~~, capitalized, boldfaced type on the front page of the  
 291 contract:

292  
 293 ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-  
 294 713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR  
 295 PROVIDE MATERIALS AND ARE NOT PAID IN FULL HAVE A RIGHT TO  
 296 ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. ~~THIS~~  
 297 ~~CLAIM IS KNOWN AS A CONSTRUCTION LIEN.~~ IF YOUR CONTRACTOR OR A  
 298 SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS,  
 299 OR MATERIAL SUPPLIERS ~~OR NEGLECTS TO MAKE OTHER LEGALLY REQUIRED~~  
 300 ~~PAYMENTS~~, THE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR  
 301 PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR  
 302 CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR

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303 CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF  
 304 A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO  
 305 PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR  
 306 OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF,  
 307 YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS  
 308 MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN  
 309 RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO  
 310 YOU A "NOTICE TO OWNER." FLORIDA'S CONSTRUCTION LIEN LAW IS  
 311 COMPLEX AND IT IS RECOMMENDED THAT ~~WHENEVER A SPECIFIC PROBLEM~~  
 312 ~~ARISES,~~ YOU CONSULT AN ATTORNEY.

313  
 314 Nothing in this section shall be construed to adversely affect  
 315 the lien and bond rights of lienors who are not in privity with  
 316 the owner. This section does not apply when the owner is a  
 317 contractor licensed under chapter 489 or is a person who created  
 318 parcels or offers parcels for sale or lease in the ordinary  
 319 course of business.

320 Section 6. Subsection (7) of section 713.02, Florida  
 321 Statutes, is amended to read:

322 713.02 Types of lienors and exemptions.--

323 (7) Notwithstanding any other provision of this part, no  
 324 lien shall exist in favor of any contractor, subcontractor, or  
 325 sub-subcontractor who is unlicensed as provided in s. 489.128 or  
 326 s. 489.532. Notwithstanding any other provision of this part, if  
 327 a contract is rendered unenforceable by an unlicensed  
 328 contractor, subcontractor, or sub-subcontractor pursuant to s.  
 329 489.128 or s. 489.532, such unenforceability shall not affect  
 330 the rights of any other persons to enforce contract, lien, or

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331 bond remedies and shall not affect the obligations of a surety  
 332 that has provided a bond on behalf of the unlicensed contractor,  
 333 subcontractor, or sub-subcontractor. It shall not be a defense  
 334 to any claim on a bond or indemnity agreement that the principal  
 335 or indemnitor is unlicensed as provided in s. 489.128 or s.  
 336 489.532.

337 Section 7. Subsection (3) of section 713.04, Florida  
 338 Statutes, is amended, and subsection (4) is added to said  
 339 section, to read:

340 713.04 Subdivision improvements.--

341 (3) The owner shall not pay any money on account of a  
 342 direct contract before actual furnishing of labor and services  
 343 or materials for subdivision improvements. Any ~~The~~ payment not  
 344 complying with such requirement shall not qualify as a proper  
 345 payment under this chapter ~~section~~.

346 (4) The owner shall make final payment on account of a  
 347 direct contract only after the contractor complies with s.  
 348 713.06(3)(d). Any payment not complying with such requirement  
 349 shall not qualify as a proper payment under this chapter.

350 Section 8. Paragraph (c) of subsection (4) of section  
 351 713.08, Florida Statutes, is amended to read:

352 713.08 Claim of lien.--

353 (4)

354 (c) The claim of lien shall be served on the owner.  
 355 Failure to serve any claim of lien in the manner provided in s.  
 356 713.18 before recording or within 15 days after recording shall  
 357 render the claim of lien voidable to the extent that the failure

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358 or delay is shown to have been prejudicial to any person  
359 entitled to rely on the service.

360 Section 9. Paragraph (e) of subsection (1) of section  
361 713.13, Florida Statutes, is amended to read:

362 713.13 Notice of commencement.--

363 (1)

364 (e) A copy of any payment bond must be attached at the  
365 time of recordation of the notice of commencement. The failure  
366 to attach a copy of the bond to the notice of commencement when  
367 the notice is recorded negates the exemption provided in s.  
368 713.02(6). However, if ~~such~~ a payment bond under s. 713.23  
369 exists but was is not attached at the time of recordation of the  
370 notice of commencement, the bond may be used to transfer any  
371 recorded lien of a lienor except that of the contractor by the  
372 recordation and service of a notice of bond pursuant to s.  
373 713.23(2). The notice requirements of s. 713.23 apply to any  
374 claim against the bond; however, the time limits for serving any  
375 required notices shall begin running from the later of the time  
376 specified in s. 713.23 or the date the notice of bond is served  
377 on the lienor recorded, the bond may be used as a transfer bond  
378 pursuant to s. 713.24.

379 Section 10. Paragraphs (b) and (d) of subsection (1) and  
380 subsections (4) and (6) of section 713.135, Florida Statutes,  
381 are amended, and paragraph (e) is added to subsection (1) of  
382 said section, to read:

383 713.135 Notice of commencement and applicability of  
384 lien.--

385 (1) When any person applies for a building permit, the  
 386 authority issuing such permit shall:

387 (b) Provide the applicant and the owner of the real  
 388 property upon which improvements are to be constructed with a  
 389 printed statement stating that the right, title, and interest of  
 390 the person who has contracted for the improvement may be subject  
 391 to attachment under the Construction Lien Law. The Department of  
 392 Business and Professional Regulation shall furnish, for  
 393 distribution, the statement described in this paragraph, and the  
 394 statement must be a summary of the Construction Lien Law and  
 395 must include an explanation of the provisions of the  
 396 Construction Lien Law relating to the recording, and the posting  
 397 of copies, of notices of commencement and a statement  
 398 encouraging the owner to record a notice of commencement and  
 399 post a copy of the notice of commencement in accordance with s.  
 400 713.13. The statement must also contain an explanation of the  
 401 owner's rights if a lienor fails to furnish the owner with a  
 402 notice as provided in s. 713.06(2) and an explanation of the  
 403 owner's rights as provided in s. 713.22. The authority that  
 404 issues the building permit must obtain from the Department of  
 405 Business and Professional Regulation the statement required by  
 406 this paragraph and must mail, deliver by electronic mail or  
 407 other electronic format or facsimile, or personally deliver that  
 408 statement to the owner or, in a case in which the owner is  
 409 required to personally appear to obtain the permit, provide that  
 410 statement to any owner making improvements to real property  
 411 consisting of a single or multiple family dwelling up to and  
 412 including four units. However, the failure by the authorities to

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413 provide the summary does not subject the issuing authority to  
414 liability.

415 (d) Furnish to the applicant two or more copies of a form  
416 of notice of commencement conforming with s. 713.13. If the  
417 direct contract is greater than \$2,500, the applicant shall file  
418 with the issuing authority prior to the first inspection either  
419 a certified copy of the recorded notice of commencement or a  
420 notarized statement that the notice of commencement has been  
421 filed for recording, along with a copy thereof. In the absence  
422 of the filing of a certified copy of the recorded notice of  
423 commencement, the issuing authority or a private provider  
424 performing inspection services may ~~shall~~ not perform or approve  
425 subsequent inspections until the applicant files by mail,  
426 facsimile, hand delivery, or any other means such certified copy  
427 with the issuing authority. The certified copy of the notice of  
428 commencement must contain the name and address of the owner, the  
429 name and address of the contractor, and the location or address  
430 of the property being improved. The issuing authority shall  
431 verify that the name and address of the owner, the name of the  
432 contractor, and the location or address of the property being  
433 improved which is contained in the certified copy of the notice  
434 of commencement is consistent with the information in the  
435 building permit application. The issuing authority shall provide  
436 the recording information on the certified copy of the recorded  
437 notice of commencement to any person upon request. This  
438 subsection does not require the recording of a notice of  
439 commencement prior to the issuance of a building permit. If a  
440 local government requires a separate permit or inspection for

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441 installation of temporary electrical service or other temporary  
 442 utility service, land clearing, or other preliminary site work,  
 443 such permits may be issued and such inspections may be conducted  
 444 without providing the issuing authority with a certified copy of  
 445 a recorded notice of commencement or a notarized statement  
 446 regarding a recorded notice of commencement. This subsection  
 447 does not apply to a direct contract to repair or replace an  
 448 existing heating or air-conditioning system in an amount less  
 449 than \$7,500 ~~\$5,000~~.

450 (e) An issuing authority or building official may not  
 451 require that a notice of commencement be recorded as a condition  
 452 of the application, processing, or issuance of a building  
 453 permit. However, this paragraph does not modify or waive the  
 454 inspection requirements set forth in this subsection.

455 (4) The several boards of county commissioners, municipal  
 456 councils, or other similar bodies may by ordinance or resolution  
 457 establish reasonable fees for furnishing copies of the forms and  
 458 the printed statement provided in paragraphs ~~paragraph~~ (1)(b)  
 459 and (d) in an amount not to exceed \$5 to be paid by the  
 460 applicant for each permit in addition to all other costs of the  
 461 permit; however, no forms or statement need be furnished,  
 462 mailed, or otherwise provided to, nor may such additional fee be  
 463 obtained from, applicants for permits in those cases in which  
 464 the owner of a legal or equitable interest (including that of  
 465 ownership of stock of a corporate landowner) of the real  
 466 property to be improved is engaged in the business of  
 467 construction of buildings for sale to others and intends to make

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468 | the improvements authorized by the permit on the property and  
 469 | upon completion will offer the improved real property for sale.

470 |       (6)(a) In addition to any other information required by  
 471 | the authority issuing the permit, the building permit  
 472 | application must be in substantially the following form:

473 |  
 474 | Tax Folio No. \_\_\_\_\_

475 | BUILDING PERMIT APPLICATION

476 |

477 | Owner's Name

478 | Owner's Address

479 | Fee Simple Titleholder's Name (If other than owner)

480 | Fee Simple Titleholder's Address (If other than owner)

481 | City

482 | State \_\_\_\_\_ Zip \_\_\_\_\_

483 | Contractor's Name

484 | Contractor's Address

485 | City

486 | State \_\_\_\_\_ Zip \_\_\_\_\_

487 | Job Name

488 | Job Address

489 | City \_\_\_\_\_ County \_\_\_\_\_

490 | Legal Description

491 | Bonding Company

492 | Bonding Company Address

493 | City \_\_\_\_\_ State \_\_\_\_\_

494 | Architect/Engineer's Name

495 | Architect/Engineer's Address

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496 Mortgage Lender's Name  
497 Mortgage Lender's Address  
498

499 Application is hereby made to obtain a permit to do the  
500 work and installations as indicated. I certify that no work or  
501 installation has commenced prior to the issuance of a permit and  
502 that all work will be performed to meet the standards of all  
503 laws regulating construction in this jurisdiction. I understand  
504 that a separate permit must be secured for ELECTRICAL WORK,  
505 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,  
506 TANKS, and AIR CONDITIONERS, etc.

507  
508 OWNER'S AFFIDAVIT: I certify that all the foregoing information  
509 is accurate and that all work will be done in compliance with  
510 all applicable laws regulating construction and zoning.

511  
512  
513 WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF  
514 COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO  
515 YOUR PROPERTY.

516  
517  
518 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR  
519 AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

520  
521 (Signature of Owner or Agent)  
522 (including contractor)

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524 COUNTY OF \_\_\_\_\_

525

526

527 Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_

528 day of \_\_\_\_\_, (year) , by (name of person making statement)

529 .

530

531 (Signature of Notary Public - State of Florida)

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

533

534 Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

535

536 Type of Identification Produced \_\_\_\_\_

537 (Signature of Contractor)

538

539

540 STATE OF FLORIDA

541 COUNTY OF \_\_\_\_\_

542

543

544 Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_

545 day of \_\_\_\_\_, (year) , by (name of person making statement)

546 .

547

548 (Signature of Notary Public - State of Florida)

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

550

551 Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

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Type of Identification Produced\_\_\_\_\_

(Certificate of Competency Holder)

Contractor's State Certification or Registration No.\_\_\_\_\_

Contractor's Certificate of Competency No.\_\_\_\_\_

APPLICATION APPROVED BY  
\_\_\_\_\_Permit Officer

(b) Consistent with the requirements of paragraph (a), an authority responsible for issuing building permits under this section may accept a building permit application in an electronic format, as prescribed by the authority. Building permit applications submitted to the authority electronically must contain the following additional statement:

OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of perjury, I declare that all the information contained in this building permit application is true and correct.

(c) An authority responsible for issuing building permit applications which accepts building permit applications in an electronic format shall provide public Internet access to the electronic building permit applications in a searchable format.

Section 11. Paragraph (e) of subsection (1) of section 713.23, Florida Statutes, is amended to read:

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580           713.23 Payment bond.--  
581           (1)  
582           (e) No action for the labor or materials or supplies may  
583 be instituted or prosecuted against the contractor or surety  
584 unless both notices have been given. No action shall be  
585 instituted or prosecuted against the contractor or against the  
586 surety on the bond under this section after 1 year from the  
587 performance of the labor or completion of delivery of the  
588 materials and supplies. The time period for bringing an action  
589 against the contractor or surety on the bond shall be measured  
590 from the last day of furnishing labor, services, or materials by  
591 the lienor and shall not be measured by other standards, such as  
592 the issuance of a certificate of occupancy or the issuance of a  
593 certificate of substantial completion. A contractor or the  
594 contractor's agent or attorney may elect to shorten the  
595 prescribed time within which an action to enforce any claim  
596 against a payment bond provided under ~~pursuant to~~ this section  
597 or s. 713.245 may be commenced at any time after a notice of  
598 nonpayment, if required, has been served for the claim by  
599 recording in the clerk's office a notice in substantially the  
600 following form:

601  
602 NOTICE OF CONTEST OF CLAIM  
603 AGAINST PAYMENT BOND  
604

605 To:           (Name and address of lienor)  
606           You are notified that the undersigned contests your notice  
607 of nonpayment, dated \_\_\_\_\_, \_\_\_\_\_, and served on the undersigned

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608 | on \_\_\_\_\_, \_\_\_\_\_, and that the time within which you may file  
609 | suit to enforce your claim is limited to 60 days from the date  
610 | of service of this notice.

611 |  
612 | DATED on \_\_\_\_\_, \_\_\_\_\_.

613 |  
614 | Signed: (Contractor or Attorney)

615 |  
616 |  
617 | The claim of any lienor upon whom the ~~such~~ notice is served and  
618 | who fails to institute a suit to enforce his or her claim  
619 | against the payment bond within 60 days after service of the  
620 | ~~such~~ notice shall be extinguished automatically. The clerk shall  
621 | mail a copy of the notice of contest to the lienor at the  
622 | address shown in the notice of nonpayment or most recent  
623 | amendment thereto and shall certify to such service on the face  
624 | of the ~~such~~ notice and record the notice. Service is complete  
625 | upon mailing.

626 | Section 12. Subsections (3) and (4) of section 713.24,  
627 | Florida Statutes, are amended to read:

628 | 713.24 Transfer of liens to security.--

629 | (3) Any party having an interest in such security or the  
630 | property from which the lien was transferred may at any time,  
631 | and any number of times, file a complaint in chancery in the  
632 | circuit court of the county where such security is deposited, or  
633 | file a motion in a pending action to enforce a lien, for an  
634 | order to require additional security, reduction of security,  
635 | change or substitution of sureties, payment of discharge

636 | thereof, or any other matter affecting said security. If the  
 637 | court finds that the amount of the deposit or bond in excess of  
 638 | the amount claimed in the claim of lien is insufficient to pay  
 639 | the lienor's attorney's fees and court costs incurred in the  
 640 | action to enforce the lien, the court must increase the amount  
 641 | of the cash deposit or lien transfer bond. Nothing in this  
 642 | section shall be construed to vest exclusive jurisdiction in the  
 643 | circuit courts over transfer bond claims for nonpayment of an  
 644 | amount within the monetary jurisdiction of the county courts.

645 |         (4) If a proceeding to enforce a transferred lien is not  
 646 | commenced within the time specified in s. 713.22 or if it  
 647 | appears that the transferred lien has been satisfied of record,  
 648 | the clerk shall return said security upon request of the person  
 649 | depositing or filing the same, or the insurer. If a proceeding  
 650 | to enforce a lien is commenced in a court of competent  
 651 | jurisdiction within the time specified in s. 713.22 and, during  
 652 | such proceeding, the lien is transferred pursuant to this  
 653 | section or s. 713.13(1)(e), an action commenced within 1 year  
 654 | after the transfer, unless otherwise shortened by operation of  
 655 | law, in the same county or circuit court to recover against the  
 656 | security shall be deemed to have been brought as of the date of  
 657 | filing the action to enforce the lien, and the court shall have  
 658 | jurisdiction over the action.

659 |         Section 13. Paragraph (b) of subsection (1) of section  
 660 | 713.345, Florida Statutes, is amended to read:

661 |         713.345 Moneys received for real property improvements;  
 662 | penalty for misapplication.--

663 |         (1)



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664 (b) Any person who knowingly and intentionally fails to  
665 comply with paragraph (a) is guilty of misapplication of  
666 construction funds, punishable as follows:

667 1. If the amount of payments misapplied has an aggregate  
668 value of \$100,000 or more, the violator is guilty of a felony of  
669 the first degree, punishable as provided in s. 775.082, s.  
670 775.083, or s. 775.084.

671 2. If the amount of payments misapplied has an aggregate  
672 value of \$1,000 ~~\$20,000~~ or more but less than \$100,000, the  
673 violator is guilty of a felony of the second degree, punishable  
674 as provided in s. 775.082, s. 775.083, or s. 775.084.

675 3. If the amount of payments misapplied has an aggregate  
676 value of less than \$1,000 ~~\$20,000~~, the violator is guilty of a  
677 felony of the third degree, punishable as provided in s.  
678 775.082, s. 775.083, or s. 775.084.

679 Section 14. Subsection (1) of section 713.3471, Florida  
680 Statutes, is amended to read:

681 713.3471 Lender responsibilities with construction  
682 loans.--

683 (1) Prior to a lender making any loan disbursement on any  
684 construction loan secured by residential real property directly  
685 to the owner, which, for purposes of this subsection, means only  
686 a natural person, into the owner's account or accounts, or  
687 jointly to the owner and any other party, the lender shall mail,  
688 deliver by electronic mail or other electronic format or  
689 facsimile, or personally deliver ~~give~~ the following written  
690 notice to the borrowers in bold type larger than any other type  
691 on the page:

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WARNING!

YOUR LENDER IS MAKING A LOAN DISBURSEMENT DIRECTLY TO YOU AS THE BORROWER, OR JOINTLY TO YOU AND ANOTHER PARTY. TO PROTECT YOURSELF FROM HAVING TO PAY TWICE FOR THE SAME LABOR, SERVICES, OR MATERIALS USED IN MAKING THE IMPROVEMENTS TO YOUR PROPERTY, BE SURE THAT YOU REQUIRE YOUR CONTRACTOR TO GIVE YOU LIEN RELEASES FROM EACH LIENOR WHO HAS SENT YOU A NOTICE TO OWNER EACH TIME YOU MAKE A PAYMENT TO YOUR CONTRACTOR.

This subsection does not apply when the owner is a contractor licensed under chapter 489 or is a person who creates parcels or offer parcels for sale or lease in the ordinary course of business.

Section 15. This act shall take effect October 1, 2005.