

1                                   A bill to be entitled  
2           An act relating to construction contracting; amending s.  
3           255.05, F.S.; making certain restrictions in bonds issued  
4           for public works projects unenforceable; amending s.  
5           489.118, F.S.; postponing a date for submitting an  
6           application for a certificate as a registered contractor;  
7           amending ss. 489.129 and 489.533, F.S.; increasing an  
8           administrative fine under certain disciplinary proceeding  
9           provisions; amending s. 713.015, F.S.; revising form  
10          criteria for a direct contract provision; preserving lien  
11          and bond rights of certain persons; specifying  
12          nonapplication to certain contractors or construction  
13          professionals; amending s. 713.02, F.S.; protecting the  
14          rights of certain persons to enforce certain contract,  
15          lien, or bond remedies or contractual obligations under  
16          certain circumstances; precluding certain defenses;  
17          amending s. 713.04, F.S.; revising certain final payment  
18          requirements; amending s. 713.08, F.S.; requiring a claim  
19          of lien to be served on an owner; amending s. 713.13,  
20          F.S.; revising provisions authorizing use of certain  
21          payment bonds to transfer certain recorded liens;  
22          specifying application of certain notice requirements to  
23          certain claims; revising time limits for serving certain  
24          required notices; amending s. 713.135, F.S.; revising  
25          certain notice of commencement and applicability of lien  
26          requirements for certain authorities issuing building  
27          permits; prohibiting private providers performing  
28          inspection services from performing or approving certain

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

50  
51 Be It Enacted by the Legislature of the State of Florida:

52  
53 Section 1. Paragraph (a) of subsection (1) of section  
54 255.05, Florida Statutes, is amended to read:

55 255.05 Bond of contractor constructing public buildings;  
56 form; action by materialmen.--

57 | (1) (a) Any person entering into a formal contract with the  
58 | state or any county, city, or political subdivision thereof, or  
59 | other public authority, for the construction of a public  
60 | building, for the prosecution and completion of a public work,  
61 | or for repairs upon a public building or public work shall be  
62 | required, before commencing the work or before recommencing the  
63 | work after a default or abandonment, to execute, deliver to the  
64 | public owner, and record in the public records of the county  
65 | where the improvement is located, a payment and performance bond  
66 | with a surety insurer authorized to do business in this state as  
67 | surety. A public entity may not require a contractor to secure a  
68 | surety bond under this section from a specific agent or bonding  
69 | company. The bond must state on its front page: the name,  
70 | principal business address, and phone number of the contractor,  
71 | the surety, the owner of the property being improved, and, if  
72 | different from the owner, the contracting public entity; the  
73 | contract number assigned by the contracting public entity; and a  
74 | description of the project sufficient to identify it, such as a  
75 | legal description or the street address of the property being  
76 | improved, and a general description of the improvement. Such  
77 | bond shall be conditioned upon the contractor's performance of  
78 | the construction work in the time and manner prescribed in the  
79 | contract and promptly making payments to all persons defined in  
80 | s. 713.01 who furnish labor, services, or materials for the  
81 | prosecution of the work provided for in the contract. Any  
82 | claimant may apply to the governmental entity having charge of  
83 | the work for copies of the contract and bond and shall thereupon  
84 | be furnished with a certified copy of the contract and bond. The

85 claimant shall have a right of action against the contractor and  
86 surety for the amount due him or her, including unpaid finance  
87 charges due under the claimant's contract. Such action shall not  
88 involve the public authority in any expense. When such work is  
89 done for the state and the contract is for \$100,000 or less, no  
90 payment and performance bond shall be required. At the  
91 discretion of the official or board awarding such contract when  
92 such work is done for any county, city, political subdivision,  
93 or public authority, any person entering into such a contract  
94 which is for \$200,000 or less may be exempted from executing the  
95 payment and performance bond. When such work is done for the  
96 state, the Secretary of the Department of Management Services  
97 may delegate to state agencies the authority to exempt any  
98 person entering into such a contract amounting to more than  
99 \$100,000 but less than \$200,000 from executing the payment and  
100 performance bond. In the event such exemption is granted, the  
101 officer or officials shall not be personally liable to persons  
102 suffering loss because of granting such exemption. The  
103 Department of Management Services shall maintain information on  
104 the number of requests by state agencies for delegation of  
105 authority to waive the bond requirements by agency and project  
106 number and whether any request for delegation was denied and the  
107 justification for the denial. Any provision in a payment bond  
108 furnished for public work contracts as provided by this  
109 subsection which restricts the classes of persons as defined in  
110 s. 713.01 protected by the bond or the venue of any proceeding  
111 relating to such bond is unenforceable.

112 Section 2. Section 489.118, Florida Statutes, is amended  
113 to read:

114 489.118 Certification of registered contractors;  
115 grandfathering provisions.--The board shall, upon receipt of a  
116 completed application and appropriate fee, issue a certificate  
117 in the appropriate category to any contractor registered under  
118 this part who makes application to the board and can show that  
119 he or she meets each of the following requirements:

120 (1) Currently holds a valid registered local license in  
121 one of the contractor categories defined in s. 489.105(3)(a)-  
122 (p).

123 (2) Has, for that category, passed a written examination  
124 that the board finds to be substantially similar to the  
125 examination required to be licensed as a certified contractor  
126 under this part. For purposes of this subsection, a written,  
127 proctored examination such as that produced by the National  
128 Assessment Institute, Block and Associates, NAI/Block, Experior  
129 Assessments, Professional Testing, Inc., or Assessment Systems,  
130 Inc., shall be considered to be substantially similar to the  
131 examination required to be licensed as a certified contractor.  
132 The board may not impose or make any requirements regarding the  
133 nature or content of these cited examinations.

134 (3) Has at least 5 years of experience as a contractor in  
135 that contracting category, or as an inspector or building  
136 administrator with oversight over that category, at the time of  
137 application. For contractors, only time periods in which the  
138 contractor license is active and the contractor is not on

139 | probation shall count toward the 5 years required by this  
 140 | subsection.

141 |         (4) Has not had his or her contractor's license revoked at  
 142 | any time, had his or her contractor's license suspended within  
 143 | the last 5 years, or been assessed a fine in excess of \$500  
 144 | within the last 5 years.

145 |         (5) Is in compliance with the insurance and financial  
 146 | responsibility requirements in s. 489.115(5).  
 147 |

148 | Applicants wishing to obtain a certificate pursuant to this  
 149 | section must make application by November 1, 2005 ~~2004~~.

150 |         Section 3. Subsection (1) of section 489.129, Florida  
 151 | Statutes, is amended to read:

152 |             489.129 Disciplinary proceedings.--

153 |         (1) The board may take any of the following actions  
 154 | against any certificateholder or registrant: place on probation  
 155 | or reprimand the licensee, revoke, suspend, or deny the issuance  
 156 | or renewal of the certificate, registration, or certificate of  
 157 | authority, require financial restitution to a consumer for  
 158 | financial harm directly related to a violation of a provision of  
 159 | this part, impose an administrative fine not to exceed \$10,000  
 160 | ~~\$5,000~~ per violation, require continuing education, or assess  
 161 | costs associated with investigation and prosecution, if the  
 162 | contractor, financially responsible officer, or business  
 163 | organization for which the contractor is a primary qualifying  
 164 | agent, a financially responsible officer, or a secondary  
 165 | qualifying agent responsible under s. 489.1195 is found guilty  
 166 | of any of the following acts:

167 (a) Obtaining a certificate, registration, or certificate  
168 of authority by fraud or misrepresentation.

169 (b) Being convicted or found guilty of, or entering a plea  
170 of nolo contendere to, regardless of adjudication, a crime in  
171 any jurisdiction which directly relates to the practice of  
172 contracting or the ability to practice contracting.

173 (c) Violating any provision of chapter 455.

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

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

189 (f) Acting in the capacity of a contractor under any  
190 certificate or registration issued hereunder except in the name  
191 of the certificateholder or registrant as set forth on the  
192 issued certificate or registration, or in accordance with the  
193 personnel of the certificateholder or registrant as set forth in

194 the application for the certificate or registration, or as later  
195 changed as provided in this part.

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

198 Financial mismanagement or misconduct occurs when:

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

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

212 3. The contractor's job has been completed, and it is  
213 shown that the customer has had to pay more for the contracted  
214 job than the original contract price, as adjusted for subsequent  
215 change orders, unless such increase in cost was the result of  
216 circumstances beyond the control of the contractor, was the  
217 result of circumstances caused by the customer, or was otherwise  
218 permitted by the terms of the contract between the contractor  
219 and the customer.

220 (h) Being disciplined by any municipality or county for an  
221 act or violation of this part.



222 (i) Failing in any material respect to comply with the  
223 provisions of this part or violating a rule or lawful order of  
224 the board.

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

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

239 (l) Committing fraud or deceit in the practice of  
240 contracting.

241 (m) Committing incompetency or misconduct in the practice  
242 of contracting.

243 (n) Committing gross negligence, repeated negligence, or  
244 negligence resulting in a significant danger to life or  
245 property.

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

248 (p) Intimidating, threatening, coercing, or otherwise  
249 discouraging the service of a notice to owner under part I of

250 chapter 713 or a notice to contractor under chapter 255 or part  
 251 I of chapter 713.

252 (q) Failing to satisfy within a reasonable time, the terms  
 253 of a civil judgment obtained against the licensee, or the  
 254 business organization qualified by the licensee, relating to the  
 255 practice of the licensee's profession.

256

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

268 Section 4. Paragraph (c) of subsection (2) of section  
 269 489.533, Florida Statutes, is amended to read:

270 489.533 Disciplinary proceedings.--

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

277 (c) Imposition of an administrative fine not to exceed  
 278 \$10,000 ~~\$5,000~~ for each count or separate offense.

279 Section 5. Section 713.015, Florida Statutes, is amended  
 280 to read:

281 713.015 Mandatory provisions for direct contracts.--Any  
 282 direct contract between an owner and a contractor, related to  
 283 improvements to real property consisting of single or multiple  
 284 family dwellings up to and including four units, must contain  
 285 the following provision printed in no less than 14-point ~~18-~~  
 286 ~~point~~, capitalized, boldfaced type on the front page of the  
 287 contract:

288  
 289 ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-  
 290 713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR  
 291 PROVIDE MATERIALS AND ARE NOT PAID IN FULL HAVE A RIGHT TO  
 292 ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. ~~THIS~~  
 293 ~~CLAIM IS KNOWN AS A CONSTRUCTION LIEN.~~ IF YOUR CONTRACTOR OR A  
 294 SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS,  
 295 OR MATERIAL SUPPLIERS ~~OR NEGLECTS TO MAKE OTHER LEGALLY REQUIRED~~  
 296 ~~PAYMENTS~~, THE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR  
 297 PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR  
 298 CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR  
 299 CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF  
 300 A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO  
 301 PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR  
 302 OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF,  
 303 YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS  
 304 MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN

305 RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO  
 306 YOU A "NOTICE TO OWNER." FLORIDA'S CONSTRUCTION LIEN LAW IS  
 307 COMPLEX AND IT IS RECOMMENDED THAT ~~WHENEVER A SPECIFIC PROBLEM~~  
 308 ~~ARISES~~, YOU CONSULT AN ATTORNEY.

309  
 310 Nothing in this section shall be construed to adversely affect  
 311 the lien and bond rights of lienors who are not in privity with  
 312 the owner. This section does not apply when the owner is a  
 313 contractor licensed under chapter 489 or is a person who created  
 314 parcels or offers parcels for sale or lease in the ordinary  
 315 course of business.

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

318 713.02 Types of lienors and exemptions.--

319 (7) Notwithstanding any other provision of this part, no  
 320 lien shall exist in favor of any contractor, subcontractor, or  
 321 sub-subcontractor who is unlicensed as provided in s. 489.128 or  
 322 s. 489.532. Notwithstanding any other provision of this part, if  
 323 a contract is rendered unenforceable by an unlicensed  
 324 contractor, subcontractor, or sub-subcontractor pursuant to s.  
 325 489.128 or s. 489.532, such unenforceability shall not affect  
 326 the rights of any other persons to enforce contract, lien, or  
 327 bond remedies and shall not affect the obligations of a surety  
 328 that has provided a bond on behalf of the unlicensed contractor,  
 329 subcontractor, or sub-subcontractor. It shall not be a defense  
 330 to any claim on a bond or indemnity agreement that the principal  
 331 or indemnitor is unlicensed as provided in s. 489.128 or s.  
 332 489.532.

333 Section 7. Subsection (3) of section 713.04, Florida  
 334 Statutes, is amended, and subsection (4) is added to said  
 335 section, to read:

336 713.04 Subdivision improvements.--

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

342 (4) The owner shall make final payment on account of a  
 343 direct contract only after the contractor complies with s.  
 344 713.06(3)(d). Any payment not complying with such requirement  
 345 shall not qualify as a proper payment under this chapter.

346 Section 8. Paragraph (c) of subsection (4) of section  
 347 713.08, Florida Statutes, is amended to read:

348 713.08 Claim of lien.--

349 (4)

350 (c) The claim of lien shall be served on the owner.  
 351 Failure to serve any claim of lien in the manner provided in s.  
 352 713.18 before recording or within 15 days after recording shall  
 353 render the claim of lien voidable to the extent that the failure  
 354 or delay is shown to have been prejudicial to any person  
 355 entitled to rely on the service.

356 Section 9. Paragraph (e) of subsection (1) of section  
 357 713.13, Florida Statutes, is amended to read:

358 713.13 Notice of commencement.--

359 (1)

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

375 Section 10. Paragraphs (b) and (d) of subsection (1) and  
376 subsections (4) and (6) of section 713.135, Florida Statutes,  
377 are amended, and paragraph (e) is added to subsection (1) of  
378 said section, to read:

379 713.135 Notice of commencement and applicability of  
380 lien.--

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

383 (b) Provide the applicant and the owner of the real  
384 property upon which improvements are to be constructed with a  
385 printed statement stating that the right, title, and interest of  
386 the person who has contracted for the improvement may be subject  
387 to attachment under the Construction Lien Law. The Department of

388 Business and Professional Regulation shall furnish, for  
389 distribution, the statement described in this paragraph, and the  
390 statement must be a summary of the Construction Lien Law and  
391 must include an explanation of the provisions of the  
392 Construction Lien Law relating to the recording, and the posting  
393 of copies, of notices of commencement and a statement  
394 encouraging the owner to record a notice of commencement and  
395 post a copy of the notice of commencement in accordance with s.  
396 713.13. The statement must also contain an explanation of the  
397 owner's rights if a lienor fails to furnish the owner with a  
398 notice as provided in s. 713.06(2) and an explanation of the  
399 owner's rights as provided in s. 713.22. The authority that  
400 issues the building permit must obtain from the Department of  
401 Business and Professional Regulation the statement required by  
402 this paragraph and must mail, deliver by electronic mail or  
403 other electronic format or facsimile, or personally deliver that  
404 statement to the owner or, in a case in which the owner is  
405 required to personally appear to obtain the permit, provide that  
406 statement to any owner making improvements to real property  
407 consisting of a single or multiple family dwelling up to and  
408 including four units. However, the failure by the authorities to  
409 provide the summary does not subject the issuing authority to  
410 liability.

411 (d) Furnish to the applicant two or more copies of a form  
412 of notice of commencement conforming with s. 713.13. If the  
413 direct contract is greater than \$2,500, the applicant shall file  
414 with the issuing authority prior to the first inspection either  
415 a certified copy of the recorded notice of commencement or a

416 | notarized statement that the notice of commencement has been  
417 | filed for recording, along with a copy thereof. In the absence  
418 | of the filing of a certified copy of the recorded notice of  
419 | commencement, the issuing authority or a private provider  
420 | performing inspection services may ~~shall~~ not perform or approve  
421 | subsequent inspections until the applicant files by mail,  
422 | facsimile, hand delivery, or any other means such certified copy  
423 | with the issuing authority. The certified copy of the notice of  
424 | commencement must contain the name and address of the owner, the  
425 | name and address of the contractor, and the location or address  
426 | of the property being improved. The issuing authority shall  
427 | verify that the name and address of the owner, the name of the  
428 | contractor, and the location or address of the property being  
429 | improved which is contained in the certified copy of the notice  
430 | of commencement is consistent with the information in the  
431 | building permit application. The issuing authority shall provide  
432 | the recording information on the certified copy of the recorded  
433 | notice of commencement to any person upon request. This  
434 | subsection does not require the recording of a notice of  
435 | commencement prior to the issuance of a building permit. If a  
436 | local government requires a separate permit or inspection for  
437 | installation of temporary electrical service or other temporary  
438 | utility service, land clearing, or other preliminary site work,  
439 | such permits may be issued and such inspections may be conducted  
440 | without providing the issuing authority with a certified copy of  
441 | a recorded notice of commencement or a notarized statement  
442 | regarding a recorded notice of commencement. This subsection  
443 | does not apply to a direct contract to repair or replace an



444 existing heating or air-conditioning system in an amount less  
 445 than \$7,500 ~~\$5,000~~.

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

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

466 (6) (a) In addition to any other information required by  
 467 the authority issuing the permit, the building permit  
 468 application must be in substantially the following form:

469  
 470 Tax Folio No. \_\_\_\_\_  
 471 BUILDING PERMIT APPLICATION

472  
 473 Owner's Name  
 474 Owner's Address  
 475 Fee Simple Titleholder's Name (If other than owner)  
 476 Fee Simple Titleholder's Address (If other than owner)  
 477 City  
 478 State\_\_\_\_\_ Zip\_\_\_\_\_

479 Contractor's Name  
 480 Contractor's Address  
 481 City  
 482 State\_\_\_\_\_ Zip\_\_\_\_\_

483 Job Name  
 484 Job Address  
 485 City\_\_\_\_\_ County\_\_\_\_\_

486 Legal Description  
 487 Bonding Company  
 488 Bonding Company Address  
 489 City\_\_\_\_\_ State\_\_\_\_\_

490 Architect/Engineer's Name  
 491 Architect/Engineer's Address  
 492 Mortgage Lender's Name  
 493 Mortgage Lender's Address

494  
 495       Application is hereby made to obtain a permit to do the  
 496 work and installations as indicated. I certify that no work or  
 497 installation has commenced prior to the issuance of a permit and  
 498 that all work will be performed to meet the standards of all  
 499 laws regulating construction in this jurisdiction. I understand

500 that a separate permit must be secured for ELECTRICAL WORK,  
 501 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,  
 502 TANKS, and AIR CONDITIONERS, etc.

503  
 504 OWNER'S AFFIDAVIT: I certify that all the foregoing information  
 505 is accurate and that all work will be done in compliance with  
 506 all applicable laws regulating construction and zoning.

507  
 508  
 509 WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF  
 510 COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO  
 511 YOUR PROPERTY.

512  
 513  
 514 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR  
 515 AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

516  
 517 (Signature of Owner or Agent)  
 518 (including contractor)

519 STATE OF FLORIDA  
 520 COUNTY OF \_\_\_\_\_

521  
 522  
 523 Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_  
 524 day of \_\_\_\_\_, (year) , by (name of person making statement)  
 525 .

526  
 527 (Signature of Notary Public - State of Florida)

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

529

530 Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

531

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

533 (Signature of Contractor)

534

535

536 STATE OF FLORIDA

537 COUNTY OF \_\_\_\_\_

538

539

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

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

542 .

543

544 (Signature of Notary Public - State of Florida)

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

546

547 Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

548

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

550

551 (Certificate of Competency Holder)

552

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

554

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

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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:

713.23 Payment bond.--

(1)

(e) No action for the labor or materials or supplies may be instituted or prosecuted against the contractor or surety unless both notices have been given. No action shall be instituted or prosecuted against the contractor or against the surety on the bond under this section after 1 year from the performance of the labor or completion of delivery of the

584 materials and supplies. The time period for bringing an action  
 585 against the contractor or surety on the bond shall be measured  
 586 from the last day of furnishing labor, services, or materials by  
 587 the lienor and shall not be measured by other standards, such as  
 588 the issuance of a certificate of occupancy or the issuance of a  
 589 certificate of substantial completion. A contractor or the  
 590 contractor's agent or attorney may elect to shorten the  
 591 prescribed time within which an action to enforce any claim  
 592 against a payment bond provided under ~~pursuant to~~ this section  
 593 or s. 713.245 may be commenced at any time after a notice of  
 594 nonpayment, if required, has been served for the claim by  
 595 recording in the clerk's office a notice in substantially the  
 596 following form:

597  
 598 NOTICE OF CONTEST OF CLAIM  
 599 AGAINST PAYMENT BOND

600  
 601 To: (Name and address of lienor)  
 602 You are notified that the undersigned contests your notice  
 603 of nonpayment, dated \_\_\_\_\_, \_\_\_\_\_, and served on the undersigned  
 604 on \_\_\_\_\_, \_\_\_\_\_, and that the time within which you may file  
 605 suit to enforce your claim is limited to 60 days from the date  
 606 of service of this notice.

607  
 608 DATED on \_\_\_\_\_, \_\_\_\_\_.

609  
 610 Signed: (Contractor or Attorney)

611

612  
613 The claim of any lienor upon whom the ~~such~~ notice is served and  
614 who fails to institute a suit to enforce his or her claim  
615 against the payment bond within 60 days after service of the  
616 ~~such~~ notice shall be extinguished automatically. The clerk shall  
617 mail a copy of the notice of contest to the lienor at the  
618 address shown in the notice of nonpayment or most recent  
619 amendment thereto and shall certify to such service on the face  
620 of the ~~such~~ notice and record the notice. Service is complete  
621 upon mailing.

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

624 713.24 Transfer of liens to security.--

625 (3) Any party having an interest in such security or the  
626 property from which the lien was transferred may at any time,  
627 and any number of times, file a complaint in chancery in the  
628 circuit court of the county where such security is deposited, or  
629 file a motion in a pending action to enforce a lien, for an  
630 order to require additional security, reduction of security,  
631 change or substitution of sureties, payment of discharge  
632 thereof, or any other matter affecting said security. If the  
633 court finds that the amount of the deposit or bond in excess of  
634 the amount claimed in the claim of lien is insufficient to pay  
635 the lienor's attorney's fees and court costs incurred in the  
636 action to enforce the lien, the court must increase the amount  
637 of the cash deposit or lien transfer bond. Nothing in this  
638 section shall be construed to vest exclusive jurisdiction in the

639 circuit courts over transfer bond claims for nonpayment of an  
 640 amount within the monetary jurisdiction of the county courts.

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

655 Section 13. Paragraph (b) of subsection (1) of section  
 656 713.345, Florida Statutes, is amended to read:

657 713.345 Moneys received for real property improvements;  
 658 penalty for misapplication.--

659 (1)

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

663 1. If the amount of payments misapplied has an aggregate  
 664 value of \$100,000 or more, the violator is guilty of a felony of  
 665 the first degree, punishable as provided in s. 775.082, s.  
 666 775.083, or s. 775.084.



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

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

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

677 713.3471 Lender responsibilities with construction  
 678 loans.--

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

688  
 689 WARNING!  
 690

691 YOUR LENDER IS MAKING A LOAN DISBURSEMENT DIRECTLY TO YOU  
 692 AS THE BORROWER, OR JOINTLY TO YOU AND ANOTHER PARTY. TO  
 693 PROTECT YOURSELF FROM HAVING TO PAY TWICE FOR THE SAME  
 694 LABOR, SERVICES, OR MATERIALS USED IN MAKING THE

695 IMPROVEMENTS TO YOUR PROPERTY, BE SURE THAT YOU REQUIRE  
696 YOUR CONTRACTOR TO GIVE YOU LIEN RELEASES FROM EACH LIENOR  
697 WHO HAS SENT YOU A NOTICE TO OWNER EACH TIME YOU MAKE A  
698 PAYMENT TO YOUR CONTRACTOR.

699

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

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