

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. 713.23, F.S.; clarifying  
25 provisions relating to payment bonds; amending s. 713.24,  
26 F.S.; providing construction to preserve county court  
27 jurisdiction over certain transfer bond claims for  
28 nonpayment; preserving certain lien rights when filing a

29 | transfer bond after commencing certain lien enforcement  
 30 | proceedings; amending s. 713.345, F.S.; revising criteria  
 31 | for certain criminal penalties for misapplication of  
 32 | construction funds; amending s. 713.3471, F.S.; revising a  
 33 | provision requiring a lender to provide notice to a  
 34 | property owner when making a disbursement on a  
 35 | construction loan secured by residential property;  
 36 | specifying nonapplication; providing an effective date.

37 |

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

39 |

40 | Section 1. Paragraph (a) of subsection (1) of section  
 41 | 255.05, Florida Statutes, is amended to read:

42 | 255.05 Bond of contractor constructing public buildings;  
 43 | form; action by materialmen.--

44 | (1) (a) Any person entering into a formal contract with the  
 45 | state or any county, city, or political subdivision thereof, or  
 46 | other public authority, for the construction of a public  
 47 | building, for the prosecution and completion of a public work,  
 48 | or for repairs upon a public building or public work shall be  
 49 | required, before commencing the work or before recommencing the  
 50 | work after a default or abandonment, to execute, deliver to the  
 51 | public owner, and record in the public records of the county  
 52 | where the improvement is located, a payment and performance bond  
 53 | with a surety insurer authorized to do business in this state as  
 54 | surety. A public entity may not require a contractor to secure a  
 55 | surety bond under this section from a specific agent or bonding  
 56 | company. The bond must state on its front page: the name,

57 | principal business address, and phone number of the contractor,  
58 | the surety, the owner of the property being improved, and, if  
59 | different from the owner, the contracting public entity; the  
60 | contract number assigned by the contracting public entity; and a  
61 | description of the project sufficient to identify it, such as a  
62 | legal description or the street address of the property being  
63 | improved, and a general description of the improvement. Such  
64 | bond shall be conditioned upon the contractor's performance of  
65 | the construction work in the time and manner prescribed in the  
66 | contract and promptly making payments to all persons defined in  
67 | s. 713.01 who furnish labor, services, or materials for the  
68 | prosecution of the work provided for in the contract. Any  
69 | claimant may apply to the governmental entity having charge of  
70 | the work for copies of the contract and bond and shall thereupon  
71 | be furnished with a certified copy of the contract and bond. The  
72 | claimant shall have a right of action against the contractor and  
73 | surety for the amount due him or her, including unpaid finance  
74 | charges due under the claimant's contract. Such action shall not  
75 | involve the public authority in any expense. When such work is  
76 | done for the state and the contract is for \$100,000 or less, no  
77 | payment and performance bond shall be required. At the  
78 | discretion of the official or board awarding such contract when  
79 | such work is done for any county, city, political subdivision,  
80 | or public authority, any person entering into such a contract  
81 | which is for \$200,000 or less may be exempted from executing the  
82 | payment and performance bond. When such work is done for the  
83 | state, the Secretary of the Department of Management Services  
84 | may delegate to state agencies the authority to exempt any

85 | person entering into such a contract amounting to more than  
 86 | \$100,000 but less than \$200,000 from executing the payment and  
 87 | performance bond. In the event such exemption is granted, the  
 88 | officer or officials shall not be personally liable to persons  
 89 | suffering loss because of granting such exemption. The  
 90 | Department of Management Services shall maintain information on  
 91 | the number of requests by state agencies for delegation of  
 92 | authority to waive the bond requirements by agency and project  
 93 | number and whether any request for delegation was denied and the  
 94 | justification for the denial. Any provision in a payment bond  
 95 | furnished for public work contracts as provided by this  
 96 | subsection which restricts the classes of persons as defined in  
 97 | s. 713.01 protected by the bond or the venue of any proceeding  
 98 | relating to such bond is unenforceable.

99 | Section 2. Section 489.118, Florida Statutes, is amended  
 100 | to read:

101 | 489.118 Certification of registered contractors;  
 102 | grandfathering provisions.--The board shall, upon receipt of a  
 103 | completed application and appropriate fee, issue a certificate  
 104 | in the appropriate category to any contractor registered under  
 105 | this part who makes application to the board and can show that  
 106 | he or she meets each of the following requirements:

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

110 | (2) Has, for that category, passed a written examination  
 111 | that the board finds to be substantially similar to the  
 112 | examination required to be licensed as a certified contractor

113 | under this part. For purposes of this subsection, a written,  
 114 | proctored examination such as that produced by the National  
 115 | Assessment Institute, Block and Associates, NAI/Block, Experior  
 116 | Assessments, Professional Testing, Inc., or Assessment Systems,  
 117 | Inc., shall be considered to be substantially similar to the  
 118 | examination required to be licensed as a certified contractor.  
 119 | The board may not impose or make any requirements regarding the  
 120 | nature or content of these cited examinations.

121 |       (3) Has at least 5 years of experience as a contractor in  
 122 | that contracting category, or as an inspector or building  
 123 | administrator with oversight over that category, at the time of  
 124 | application. For contractors, only time periods in which the  
 125 | contractor license is active and the contractor is not on  
 126 | probation shall count toward the 5 years required by this  
 127 | subsection.

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

132 |       (5) Is in compliance with the insurance and financial  
 133 | responsibility requirements in s. 489.115(5).  
 134 |

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

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

139 |             489.129 Disciplinary proceedings.--

140 (1) The board may take any of the following actions  
141 against any certificateholder or registrant: place on probation  
142 or reprimand the licensee, revoke, suspend, or deny the issuance  
143 or renewal of the certificate, registration, or certificate of  
144 authority, require financial restitution to a consumer for  
145 financial harm directly related to a violation of a provision of  
146 this part, impose an administrative fine not to exceed \$10,000  
147 ~~\$5,000~~ per violation, require continuing education, or assess  
148 costs associated with investigation and prosecution, if the  
149 contractor, financially responsible officer, or business  
150 organization for which the contractor is a primary qualifying  
151 agent, a financially responsible officer, or a secondary  
152 qualifying agent responsible under s. 489.1195 is found guilty  
153 of any of the following acts:

154 (a) Obtaining a certificate, registration, or certificate  
155 of authority by fraud or misrepresentation.

156 (b) Being convicted or found guilty of, or entering a plea  
157 of nolo contendere to, regardless of adjudication, a crime in  
158 any jurisdiction which directly relates to the practice of  
159 contracting or the ability to practice contracting.

160 (c) Violating any provision of chapter 455.

161 (d) Performing any act which assists a person or entity in  
162 engaging in the prohibited uncertified and unregistered practice  
163 of contracting, if the certificateholder or registrant knows or  
164 has reasonable grounds to know that the person or entity was  
165 uncertified and unregistered.

166 (e) Knowingly combining or conspiring with an uncertified  
167 or unregistered person by allowing his or her certificate,

168 registration, or certificate of authority to be used by the  
169 uncertified or unregistered person with intent to evade the  
170 provisions of this part. When a certificateholder or registrant  
171 allows his or her certificate or registration to be used by one  
172 or more business organizations without having any active  
173 participation in the operations, management, or control of such  
174 business organizations, such act constitutes prima facie  
175 evidence of an intent to evade the provisions of this part.

176 (f) Acting in the capacity of a contractor under any  
177 certificate or registration issued hereunder except in the name  
178 of the certificateholder or registrant as set forth on the  
179 issued certificate or registration, or in accordance with the  
180 personnel of the certificateholder or registrant as set forth in  
181 the application for the certificate or registration, or as later  
182 changed as provided in this part.

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

185 Financial mismanagement or misconduct occurs when:

186 1. Valid liens have been recorded against the property of  
187 a contractor's customer for supplies or services ordered by the  
188 contractor for the customer's job; the contractor has received  
189 funds from the customer to pay for the supplies or services; and  
190 the contractor has not had the liens removed from the property,  
191 by payment or by bond, within 75 days after the date of such  
192 liens;

193 2. The contractor has abandoned a customer's job and the  
194 percentage of completion is less than the percentage of the  
195 total contract price paid to the contractor as of the time of

196 abandonment, unless the contractor is entitled to retain such  
197 funds under the terms of the contract or refunds the excess  
198 funds within 30 days after the date the job is abandoned; or

199 3. The contractor's job has been completed, and it is  
200 shown that the customer has had to pay more for the contracted  
201 job than the original contract price, as adjusted for subsequent  
202 change orders, unless such increase in cost was the result of  
203 circumstances beyond the control of the contractor, was the  
204 result of circumstances caused by the customer, or was otherwise  
205 permitted by the terms of the contract between the contractor  
206 and the customer.

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

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

212 (j) Abandoning a construction project in which the  
213 contractor is engaged or under contract as a contractor. A  
214 project may be presumed abandoned after 90 days if the  
215 contractor terminates the project without just cause or without  
216 proper notification to the owner, including the reason for  
217 termination, or fails to perform work without just cause for 90  
218 consecutive days.

219 (k) Signing a statement with respect to a project or  
220 contract falsely indicating that the work is bonded; falsely  
221 indicating that payment has been made for all subcontracted  
222 work, labor, and materials which results in a financial loss to  
223 the owner, purchaser, or contractor; or falsely indicating that



224 workers' compensation and public liability insurance are  
 225 provided.

226 (l) Committing fraud or deceit in the practice of  
 227 contracting.

228 (m) Committing incompetency or misconduct in the practice  
 229 of contracting.

230 (n) Committing gross negligence, repeated negligence, or  
 231 negligence resulting in a significant danger to life or  
 232 property.

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

235 (p) Intimidating, threatening, coercing, or otherwise  
 236 discouraging the service of a notice to owner under part I of  
 237 chapter 713 or a notice to contractor under chapter 255 or part  
 238 I of chapter 713.

239 (q) Failing to satisfy within a reasonable time, the terms  
 240 of a civil judgment obtained against the licensee, or the  
 241 business organization qualified by the licensee, relating to the  
 242 practice of the licensee's profession.

243  
 244 For the purposes of this subsection, construction is considered  
 245 to be commenced when the contract is executed and the contractor  
 246 has accepted funds from the customer or lender. A contractor  
 247 does not commit a violation of this subsection when the  
 248 contractor relies on a building code interpretation rendered by  
 249 a building official or person authorized by s. 553.80 to enforce  
 250 the building code, absent a finding of fraud or deceit in the  
 251 practice of contracting, or gross negligence, repeated

252 negligence, or negligence resulting in a significant danger to  
 253 life or property on the part of the building official, in a  
 254 proceeding under chapter 120.

255 Section 4. Paragraph (c) of subsection (2) of section  
 256 489.533, Florida Statutes, is amended to read:

257 489.533 Disciplinary proceedings.--

258 (2) When the board finds any applicant, contractor, or  
 259 business organization for which the contractor is a primary  
 260 qualifying agent or secondary qualifying agent responsible under  
 261 s. 489.522 guilty of any of the grounds set forth in subsection  
 262 (1), it may enter an order imposing one or more of the following  
 263 penalties:

264 (c) Imposition of an administrative fine not to exceed  
 265 \$10,000 ~~\$5,000~~ for each count or separate offense.

266 Section 5. Section 713.015, Florida Statutes, is amended  
 267 to read:

268 713.015 Mandatory provisions for direct contracts.--Any  
 269 direct contract between an owner and a contractor, related to  
 270 improvements to real property consisting of single or multiple  
 271 family dwellings up to and including four units, must contain  
 272 the following provision printed in no less than 14-point ~~18-~~  
 273 ~~point~~, capitalized, boldfaced type on the front page of the  
 274 contract:

275  
 276 ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-  
 277 713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR  
 278 PROVIDE MATERIALS AND ARE NOT PAID IN FULL HAVE A RIGHT TO  
 279 ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. ~~THIS~~

280 ~~CLAIM IS KNOWN AS A CONSTRUCTION LIEN.~~ IF YOUR CONTRACTOR OR A  
 281 SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS,  
 282 OR MATERIAL SUPPLIERS ~~OR NEGLECTS TO MAKE OTHER LEGALLY REQUIRED~~  
 283 ~~PAYMENTS,~~ THE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR  
 284 PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR  
 285 CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR  
 286 CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF  
 287 A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO  
 288 PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR  
 289 OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF,  
 290 YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS  
 291 MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN  
 292 RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO  
 293 YOU A "NOTICE TO OWNER." FLORIDA'S CONSTRUCTION LIEN LAW IS  
 294 COMPLEX AND IT IS RECOMMENDED THAT ~~WHENEVER A SPECIFIC PROBLEM~~  
 295 ~~ARISES,~~ YOU CONSULT AN ATTORNEY.

296  
 297 Nothing in this section shall be construed to adversely affect  
 298 the lien and bond rights of lienors who are not in privity with  
 299 the owner. This section does not apply when the owner is a  
 300 contractor licensed under chapter 489 or is a person who created  
 301 parcels or offers parcels for sale or lease in the ordinary  
 302 course of business.

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

305 713.02 Types of lienors and exemptions.--

306 (7) Notwithstanding any other provision of this part, no  
 307 lien shall exist in favor of any contractor, subcontractor, or

308 sub-subcontractor who is unlicensed as provided in s. 489.128 or  
 309 s. 489.532. Notwithstanding any other provision of this part, if  
 310 a contract is rendered unenforceable by an unlicensed  
 311 contractor, subcontractor, or sub-subcontractor pursuant to s.  
 312 489.128 or s. 489.532, such unenforceability shall not affect  
 313 the rights of any other persons to enforce contract, lien, or  
 314 bond remedies and shall not affect the obligations of a surety  
 315 that has provided a bond on behalf of the unlicensed contractor,  
 316 subcontractor, or sub-subcontractor. It shall not be a defense  
 317 to any claim on a bond or indemnity agreement that the principal  
 318 or indemnitor is unlicensed as provided in s. 489.128 or s.  
 319 489.532.

320 Section 7. Subsection (3) of section 713.04, Florida  
 321 Statutes, is amended, and subsection (4) is added to said  
 322 section, to read:

323 713.04 Subdivision improvements.--

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

329 (4) The owner shall make final payment on account of a  
 330 direct contract only after the contractor complies with s.  
 331 713.06(3)(d). Any payment not complying with such requirement  
 332 shall not qualify as a proper payment under this chapter.

333 Section 8. Paragraph (c) of subsection (4) of section  
 334 713.08, Florida Statutes, is amended to read:

335 713.08 Claim of lien.--

336 (4)  
 337 (c) The claim of lien shall be served on the owner.  
 338 Failure to serve any claim of lien in the manner provided in s.  
 339 713.18 before recording or within 15 days after recording shall  
 340 render the claim of lien voidable to the extent that the failure  
 341 or delay is shown to have been prejudicial to any person  
 342 entitled to rely on the service.

343 Section 9. Paragraph (e) of subsection (1) of section  
 344 713.13, Florida Statutes, is amended to read:

345 713.13 Notice of commencement.--

346 (1)

347 (e) A copy of any payment bond must be attached at the  
 348 time of recordation of the notice of commencement. The failure  
 349 to attach a copy of the bond to the notice of commencement when  
 350 the notice is recorded negates the exemption provided in s.  
 351 713.02(6). However, if ~~such~~ a payment bond under s. 713.23  
 352 exists but was ~~is~~ not attached at the time of recordation of the  
 353 notice of commencement, the bond may be used to transfer any  
 354 recorded lien of a lienor except that of the contractor by the  
 355 recordation and service of a notice of bond pursuant to s.  
 356 713.23(2). The notice requirements of s. 713.23 apply to any  
 357 claim against the bond; however, the time limits for serving any  
 358 required notices shall begin running from the later of the time  
 359 specified in s. 713.23 or the date the notice of bond is served  
 360 on the lienor recorded, the bond may be used as a transfer bond  
 361 pursuant to s. 713.24.

362 Section 10. Paragraph (e) of subsection (1) of section  
 363 713.23, Florida Statutes, is amended to read:

364 713.23 Payment bond.--

365 (1)

366 (e) No action for the labor or materials or supplies may  
 367 be instituted or prosecuted against the contractor or surety  
 368 unless both notices have been given. No action shall be  
 369 instituted or prosecuted against the contractor or against the  
 370 surety on the bond under this section after 1 year from the  
 371 performance of the labor or completion of delivery of the  
 372 materials and supplies. The time period for bringing an action  
 373 against the contractor or surety on the bond shall be measured  
 374 from the last day of furnishing labor, services, or materials by  
 375 the lienor and shall not be measured by other standards, such as  
 376 the issuance of a certificate of occupancy or the issuance of a  
 377 certificate of substantial completion. A contractor or the  
 378 contractor's agent or attorney may elect to shorten the  
 379 prescribed time within which an action to enforce any claim  
 380 against a payment bond provided under ~~pursuant to~~ this section  
 381 or s. 713.245 may be commenced at any time after a notice of  
 382 nonpayment, if required, has been served for the claim by  
 383 recording in the clerk's office a notice in substantially the  
 384 following form:

385  
 386 NOTICE OF CONTEST OF CLAIM  
 387 AGAINST PAYMENT BOND

388  
 389 To: (Name and address of lienor)

390 You are notified that the undersigned contests your notice  
 391 of nonpayment, dated \_\_\_\_\_, \_\_\_\_\_, and served on the undersigned

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

395 |  
 396 | DATED on \_\_\_\_\_, \_\_\_\_\_.

397 |  
 398 | Signed: (Contractor or Attorney)

399 |  
 400 |  
 401 | The claim of any lienor upon whom the ~~such~~ notice is served and  
 402 | who fails to institute a suit to enforce his or her claim  
 403 | against the payment bond within 60 days after service of the  
 404 | ~~such~~ notice shall be extinguished automatically. The clerk shall  
 405 | mail a copy of the notice of contest to the lienor at the  
 406 | address shown in the notice of nonpayment or most recent  
 407 | amendment thereto and shall certify to such service on the face  
 408 | of the ~~such~~ notice and record the notice. Service is complete  
 409 | upon mailing.

410 | Section 11. Subsections (3) and (4) of section 713.24,  
 411 | Florida Statutes, are amended to read:

412 | 713.24 Transfer of liens to security.--

413 | (3) Any party having an interest in such security or the  
 414 | property from which the lien was transferred may at any time,  
 415 | and any number of times, file a complaint in chancery in the  
 416 | circuit court of the county where such security is deposited, or  
 417 | file a motion in a pending action to enforce a lien, for an  
 418 | order to require additional security, reduction of security,  
 419 | change or substitution of sureties, payment of discharge

420 thereof, or any other matter affecting said security. If the  
421 court finds that the amount of the deposit or bond in excess of  
422 the amount claimed in the claim of lien is insufficient to pay  
423 the lienor's attorney's fees and court costs incurred in the  
424 action to enforce the lien, the court must increase the amount  
425 of the cash deposit or lien transfer bond. Nothing in this  
426 section shall be construed to vest exclusive jurisdiction in the  
427 circuit courts over transfer bond claims for nonpayment of an  
428 amount within the monetary jurisdiction of the county courts.

429 (4) If a proceeding to enforce a transferred lien is not  
430 commenced within the time specified in s. 713.22 or if it  
431 appears that the transferred lien has been satisfied of record,  
432 the clerk shall return said security upon request of the person  
433 depositing or filing the same, or the insurer. If a proceeding  
434 to enforce a lien is commenced in a court of competent  
435 jurisdiction within the time specified in s. 713.22 and, during  
436 such proceeding, the lien is transferred pursuant to this  
437 section or s. 713.13(1)(e), an action commenced within 1 year  
438 after the transfer, unless otherwise shortened by operation of  
439 law, in the same county or circuit court to recover against the  
440 security shall be deemed to have been brought as of the date of  
441 filing the action to enforce the lien, and the court shall have  
442 jurisdiction over the action.

443 Section 12. Paragraph (b) of subsection (1) of section  
444 713.345, Florida Statutes, is amended to read:

445 713.345 Moneys received for real property improvements;  
446 penalty for misapplication.--

447 (1)



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

451 1. If the amount of payments misapplied has an aggregate  
 452 value of \$100,000 or more, the violator is guilty of a felony of  
 453 the first degree, punishable as provided in s. 775.082, s.  
 454 775.083, or s. 775.084.

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

459 3. If the amount of payments misapplied has an aggregate  
 460 value of less than \$1,000 ~~\$20,000~~, the violator is guilty of a  
 461 felony of the third degree, punishable as provided in s.  
 462 775.082, s. 775.083, or s. 775.084.

463 Section 13. Subsection (1) of section 713.3471, Florida  
 464 Statutes, is amended to read:

465 713.3471 Lender responsibilities with construction  
 466 loans.--

467 (1) Prior to a lender making any loan disbursement on any  
 468 construction loan secured by residential real property directly  
 469 to the owner, which, for purposes of this subsection, means only  
 470 a natural person, into the owner's account or accounts, or  
 471 jointly to the owner and any other party, the lender shall mail,  
 472 deliver by electronic mail or other electronic format or  
 473 facsimile, or personally deliver give the following written  
 474 notice to the borrowers in bold type larger than any other type  
 475 on the page:

476

477

WARNING!

478

479

YOUR LENDER IS MAKING A LOAN DISBURSEMENT DIRECTLY TO YOU

480

AS THE BORROWER, OR JOINTLY TO YOU AND ANOTHER PARTY. TO

481

PROTECT YOURSELF FROM HAVING TO PAY TWICE FOR THE SAME

482

LABOR, SERVICES, OR MATERIALS USED IN MAKING THE

483

IMPROVEMENTS TO YOUR PROPERTY, BE SURE THAT YOU REQUIRE

484

YOUR CONTRACTOR TO GIVE YOU LIEN RELEASES FROM EACH LIENOR

485

WHO HAS SENT YOU A NOTICE TO OWNER EACH TIME YOU MAKE A

486

PAYMENT TO YOUR CONTRACTOR.

487

488

This subsection does not apply when the owner is a contractor

489

licensed under chapter 489 or is a person who creates parcels or

490

offer parcels for sale or lease in the ordinary course of

491

business.

492

Section 14. This act shall take effect October 1, 2005.