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CS/HB 1285

2007 Legislature

1 A bill to be entitled
2 An act relating to construction liens; amending s. 255.05,
3 F.S.; requiring a performance bond for certain contracts
4 with private entities for specified public works projects;
5 requiring that certain notices by claimants be in writing;
6 revising requirements relating to when claimants must
7 provide certain notices; amending s. 713.01, F.S.;
8 defining the term "final furnishing"; revising the
9 definition of the term "furnish materials"; creating s.
10 713.012, F.S.; requiring that certain notices, demands, or
11 requests be in writing; amending s. 713.015, F.S.;
12 requiring that certain notices pertaining to direct
13 contracts greater than \$2,500 for improvements to certain
14 property be in writing; amending s. 713.02, F.S.;
15 providing for an owner and contractor to agree to the
16 furnishing of a payment bond; exempting an owner who
17 agrees from certain statutory provisions; amending s.
18 713.07, F.S.; providing for the recommencement of
19 construction following the termination of certain
20 contracts; amending s. 713.08, F.S.; requiring that
21 certain claims of lien be prepared and sworn to or
22 affirmed by the lienor or various agents of the lienor;
23 revising and conforming certain exceptions to a time
24 limitation on recording of a claim of lien; amending s.
25 713.13, F.S.; revising the form for notices of
26 commencement to include an additional warning and
27 notarized statements and signatures; providing that the
28 failure of a person to make a specified statement under

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29 oath deprives the person of a lien; requiring that notices
30 of commencement include the tax folio number; providing
31 for the recording of amended notices of commencement;
32 amending s. 713.135, F.S.; requiring that building permits
33 contain certain written statements; amending s. 713.16,
34 F.S.; requiring a statement of account be under oath;
35 revising provisions relating to a lienor's right to demand
36 a statement of account; requiring that the claim of lien
37 be recorded; deleting provisions relating to the failure
38 to furnish the statement; amending s. 713.18, F.S.;
39 providing procedures for service of notices and other
40 instruments upon a limited liability company; amending s.
41 713.22, F.S.; extending the duration of certain liens for
42 which amended claims of lien are filed; amending s.
43 713.31, F.S.; providing for the award of attorney's fees
44 and costs to prevailing parties in certain actions
45 relating to fraudulent liens; repealing s. 713.36, F.S.,
46 relating to an effective date, to delete an obsolete
47 provision; providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Paragraph (a) of subsection (1) and paragraph
52 (a) of subsection (2) of section 255.05, Florida Statutes, are
53 amended to read:

54 255.05 Bond of contractor constructing public buildings;
55 form; action by materialmen.--

56 (1)(a) Any person entering into a formal contract with the

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

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

112 | (2)(a)1. If a claimant is no longer furnishing labor,

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113 services, or materials on a project, a contractor or the
114 contractor's agent or attorney may elect to shorten the
115 prescribed time in this paragraph within which an action to
116 enforce any claim against a payment bond provided pursuant to
117 this section may be commenced by recording in the clerk's office
118 a notice in substantially the following form:

119
120 NOTICE OF CONTEST OF CLAIM
121 AGAINST PAYMENT BOND
122

123 To: (Name and address of claimant)
124

125 You are notified that the undersigned contests your notice
126 of nonpayment, dated _____, _____, and served on
127 the undersigned on _____, _____, and that the
128 time within which you may file suit to enforce your claim is
129 limited to 60 days after the date of service of this notice.
130

131 DATED on _____, _____.
132

133 Signed: (Contractor or Attorney)
134

135 The claim of any claimant upon whom such notice is served and
136 who fails to institute a suit to enforce his or her claim
137 against the payment bond within 60 days after service of such
138 notice shall be extinguished automatically. The clerk shall mail
139 a copy of the notice of contest to the claimant at the address
140 shown in the notice of nonpayment or most recent amendment

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141 thereto and shall certify to such service on the face of such
142 notice and record the notice. Service is complete upon mailing.

143 2. A claimant, except a laborer, who is not in privity
144 with the contractor shall, before commencing or not later than
145 45 days after commencing to furnish labor, services, or
146 materials, ~~or supplies~~ for the prosecution of the work, furnish
147 the contractor with a written notice that he or she intends to
148 look to the bond for protection. A claimant who is not in
149 privity with the contractor and who has not received payment for
150 his or her labor, services, or materials, ~~or supplies~~ shall
151 deliver to the contractor and to the surety written notice of
152 the performance of the labor or delivery of the materials or
153 supplies and of the nonpayment. The notice of nonpayment may be
154 served at any time during the progress of the work or thereafter
155 but not before 45 days after the first furnishing of labor,
156 services, or materials, and not later than 90 days after the
157 final furnishing of the labor, services, or materials by the
158 claimant or, with respect to rental equipment, not later than 90
159 days after the date that the rental equipment was last on the
160 job site available for use. Any notice of nonpayment served by a
161 claimant who is not in privity with the contractor which
162 includes sums for retainage must specify the portion of the
163 amount claimed for retainage. No action for the labor,
164 materials, or supplies may be instituted against the contractor
165 or the surety unless both notices have been given. Notices
166 required or permitted under this section may be served in
167 accordance with s. 713.18. A claimant may not waive in advance
168 his or her right to bring an action under the bond against the

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169 surety. In any action brought to enforce a claim against a
170 payment bond under this section, the prevailing party is
171 entitled to recover a reasonable fee for the services of his or
172 her attorney for trial and appeal or for arbitration, in an
173 amount to be determined by the court, which fee must be taxed as
174 part of the prevailing party's costs, as allowed in equitable
175 actions. The time periods for service of a notice of nonpayment
176 or for bringing an action against a contractor or a surety shall
177 be measured from the last day of furnishing labor, services, or
178 materials by the claimant and shall not be measured by other
179 standards, such as the issuance of a certificate of occupancy or
180 the issuance of a certificate of substantial completion.

181 Section 2. Subsections (12) through (28) of section
182 713.01, Florida Statutes, are renumbered as subsections (13)
183 through (29), respectively, present subsection (12) is amended,
184 and a new subsection (12) is added to that section, to read:

185 713.01 Definitions.--As used in this part, the term:
186 (12) "Final furnishing" means the last date that the
187 lienor furnishes labor, services, or materials. Such date may
188 not be measured by other standards, such as the issuance of a
189 certificate of occupancy or the issuance of a certificate of
190 final completion, and does not include correction of
191 deficiencies in the lienor's previously performed work or
192 materials supplied. With respect to rental equipment, the term
193 means the date that the rental equipment was last on the job
194 site and available for use.

195 (13)~~(12)~~ "Furnish materials" means supply materials which
196 are incorporated in the improvement including normal wastage in

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197 construction operations; or specially fabricated materials for
 198 incorporation in the improvement, not including any design work,
 199 submittals, or the like preliminary to actual fabrication of the
 200 materials; or supply materials used for the construction and not
 201 remaining in the improvement, subject to diminution by the
 202 salvage value of such materials; and includes supplying rental
 203 equipment ~~tools, appliances, or machinery used on the particular~~
 204 ~~improvement to the extent of the reasonable rental value for the~~
 205 ~~period of actual use (not determinable by the contract for~~
 206 ~~rental unless the owner is a party thereto), but does not~~
 207 include supplying handtools. The delivery of materials to the
 208 site of the improvement is prima facie evidence of incorporation
 209 of such materials in the improvement. The delivery of rental
 210 equipment to the site of the improvement is prima facie evidence
 211 of the period of the actual use of the rental equipment from the
 212 delivery through the time the equipment is last available for
 213 use at the site, or 2 business days after the lessor of the
 214 rental equipment receives a written notice from the owner or the
 215 lessee of the rental equipment to pick up the equipment,
 216 whichever occurs first.

217 Section 3. Section 713.012, Florida Statutes, is created
 218 to read:

219 713.012 Written notices, demands, or requests.--Notices,
 220 demands, or requests permitted or required under this part,
 221 except any required by s. 713.14, must be in writing.

222 Section 4. Section 713.015, Florida Statutes, is amended
 223 to read:

224 713.015 Mandatory provisions for direct contracts.--

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225 (1) Any direct contract greater than \$2,500 between an
 226 owner and a contractor, related to improvements to real property
 227 consisting of single or multiple family dwellings up to and
 228 including four units, must contain the following notice
 229 provision printed in no less than 12-point ~~14-point~~,
 230 capitalized, boldfaced type on the front page of the contract or
 231 on a separate page, signed by the owner and dated:

232
 233 ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-
 234 713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR
 235 PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A
 236 RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY.
 237 THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR
 238 OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-
 239 SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE ~~THE~~ PEOPLE WHO ARE
 240 OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU
 241 HAVE ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY
 242 YOUR CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR
 243 PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE
 244 SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER
 245 SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED
 246 TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS
 247 CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS
 248 REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY
 249 PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER."
 250 FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS
 251 RECOMMENDED THAT YOU CONSULT AN ATTORNEY.

252 (2) (a) If the contract is written, the notice must be in

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253 the contract document. If the contract is oral or implied, the
254 notice must be provided in a document referencing the contract.

255 (b) The failure to provide such written notice does not
256 bar the enforcement of a lien against a person who has not been
257 adversely affected.

258 (c) Nothing in This section may not shall be construed to
259 adversely affect the lien and bond rights of lienors who are not
260 in privity with the owner. This section does not apply when the
261 owner is a contractor licensed under chapter 489 or is a person
262 who created parcels or offers parcels for sale or lease in the
263 ordinary course of business.

264 Section 5. Subsection (6) of section 713.02, Florida
265 Statutes, is amended to read:

266 713.02 Types of lienors and exemptions.--

267 ~~(6) In any direct contract~~ The owner and contractor may
268 agree that require the contractor shall ~~to~~ furnish a payment
269 bond as provided in s. 713.23, and upon receipt of the bond the
270 owner is ~~shall be~~ exempt from the other provisions of this part
271 as to that direct contract, but this does not exempt the owner
272 from the lien of the contractor who furnishes the bond. If the
273 bond is provided, it shall secure all liens subsequently
274 accruing under this part as provided in s. 713.23.

275 Section 6. Subsection (4) of section 713.07, Florida
276 Statutes, is amended to read:

277 713.07 Priority of liens.--

278 (4) If construction ceases or the direct contract is
279 terminated before completion and the owner desires to recommence
280 construction, he or she may pay all lienors in full or pro rata

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281 in accordance with s. 713.06(4) prior to recommencement in which
 282 event all liens for the recommenced construction shall take
 283 priority from such recommencement; or the owner may record an
 284 affidavit in the clerk's office stating his or her intention to
 285 recommence construction and that all lienors giving notice have
 286 been paid in full except those listed therein as not having been
 287 so paid in which event 30 days after such recording, the rights
 288 of any person acquiring any interest, lien, or encumbrance on
 289 said property or of any lienor on the recommenced construction
 290 shall be paramount to any lien on the prior construction unless
 291 such prior lienor records a claim of lien within said 30-day
 292 period. A copy of said affidavit shall be served on each lienor
 293 named therein. Before recommencing, the owner shall record and
 294 post a notice of commencement for the recommenced construction,
 295 as provided in s. 713.13.

296 Section 7. Subsections (2) and (5) of section 713.08,
 297 Florida Statutes, are amended to read:

298 713.08 Claim of lien.--

299 (2) The claim of lien may be prepared by the lienor or the
 300 lienor's employee or attorney and shall be signed and sworn to
 301 or affirmed ~~verified~~ by the lienor or the lienor's ~~her or his~~
 302 agent acquainted with the facts stated therein.

303 (5) The claim of lien may be recorded at any time during
 304 the progress of the work or thereafter but not later than 90
 305 days after the final furnishing of the labor or services or
 306 materials by the lienor. However, ~~or, with respect to rental~~
 307 ~~equipment, within 90 days after the date that the rental~~
 308 ~~equipment was last on the job site available for use; provided~~

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309 | if the original ~~contractor defaults or the~~ contract is
 310 | terminated under s. 713.07(4), a ~~no~~ claim for a lien attaching
 311 | prior to such termination may not ~~default shall~~ be recorded
 312 | after 90 days following ~~from~~ the date of such termination
 313 | ~~default or 90 days after the final performance of labor or~~
 314 | ~~services or furnishing of materials, whichever occurs first. The~~
 315 | ~~time period for recording a claim of lien shall be measured from~~
 316 | ~~the last day of furnishing of~~ labor, services, or materials by
 317 | the lienor, whichever occurs first ~~and shall not be measured by~~
 318 | ~~other standards, such as the issuance of a certificate of~~
 319 | ~~occupancy or the issuance of a certificate of substantial~~
 320 | ~~completion.~~ The claim of lien shall be recorded in the clerk's
 321 | office. If such real property is situated in two or more
 322 | counties, the claim of lien shall be recorded in the clerk's
 323 | office in each of such counties. The recording of the claim of
 324 | lien shall be constructive notice to all persons of the contents
 325 | and effect of such claim. The validity of the lien and the right
 326 | to record a claim therefor shall not be affected by the
 327 | insolvency, bankruptcy, or death of the owner before the claim
 328 | of lien is recorded.

329 | Section 8. Paragraphs (a) and (d) of subsection (1) of
 330 | section 713.13, Florida Statutes, are amended, subsections (5)
 331 | and (6) of that section are renumbered as subsections (6) and
 332 | (7), respectively, and a new subsection (5) is added to that
 333 | section, to read:

334 | 713.13 Notice of commencement.--

335 | (1)(a) Except for an improvement that is exempt pursuant
 336 | to s. 713.02(5), an owner or the owner's authorized agent before

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337 actually commencing to improve any real property, or
 338 recommencing completion of any improvement after default or
 339 abandonment, whether or not a project has a payment bond
 340 complying with s. 713.23, shall record a notice of commencement
 341 in the clerk's office and forthwith post either a certified copy
 342 thereof or a notarized statement that the notice of commencement
 343 has been filed for recording along with a copy thereof. The
 344 notice of commencement shall contain the following information:

345 1. A description sufficient for identification of the real
 346 property to be improved. The description should include the
 347 legal description of the property and also should include the
 348 street address and tax folio number of the property if available
 349 or, if there is no street address available, such additional
 350 information as will describe the physical location of the real
 351 property to be improved.

352 2. A general description of the improvement.

353 3. The name and address of the owner, the owner's interest
 354 in the site of the improvement, and the name and address of the
 355 fee simple titleholder, if other than such owner.

356 4. The name and address of the contractor.

357 5. The name and address of the surety on the payment bond
 358 under s. 713.23, if any, and the amount of such bond.

359 6. The name and address of any person making a loan for
 360 the construction of the improvements.

361 7. The name and address within the state of a person other
 362 than himself or herself who may be designated by the owner as
 363 the person upon whom notices or other documents may be served
 364 under this part; and service upon the person so designated

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365 | constitutes service upon the owner.

366 | (d) A notice of commencement must be in substantially the
367 | following form:

368 |
369 | Permit No. _____ Tax Folio No. _____

370 | NOTICE OF COMMENCEMENT

371 | State of _____

372 | County of _____

373 |
374 | The undersigned hereby gives notice that improvement will be
375 | made to certain real property, and in accordance with Chapter
376 | 713, Florida Statutes, the following information is provided in
377 | this Notice of Commencement.

378 | 1. Description of property: (legal description of the
379 | property, and street address if available) .

380 | 2. General description of improvement: _____.

381 | 3. Owner information: _____.

382 | a. Name and address: _____.

383 | b. Interest in property: _____.

384 | c. Name and address of fee simple titleholder (if other
385 | than Owner): _____.

386 | 4.a. Contractor: (name and address) .

387 | b. Contractor's phone number: _____.

388 | 5. Surety

389 | a. Name and address: _____.

390 | b. Phone number: _____.

391 | c. Amount of bond: \$ _____.

392 | 6.a. Lender: (name and address) .

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393 b. Lender's phone number:_____.

394 7.a. Persons within the State of Florida designated by
395 Owner upon whom notices or other documents may be served as
396 provided by Section 713.13(1)(a)7., Florida Statutes: (name
397 and address) .

398 b. Phone numbers of designated persons:_____.

399 8.a. In addition to himself or herself, Owner designates
400 _____ of _____ to receive a copy of the
401 Lienor's Notice as provided in Section 713.13(1)(b), Florida
402 Statutes.

403 b. Phone number of person or entity designated by
404 owner:_____.

405 9. Expiration date of notice of commencement (the
406 expiration date is 1 year from the date of recording unless a
407 different date is specified)_____.

408
409 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE
410 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER
411 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA
412 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS
413 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
414 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU
415 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN
416 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF
417 COMMENCEMENT.

418
419 (Signature of Owner or Owner's Authorized
420 Officer/Director/Partner/Manager)

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(Signatory's Title/Office)

The foregoing instrument was acknowledged before me this _____
day of _____, (year) , by (name of person) as (type of
authority, . . . e.g. officer, trustee, attorney in fact) for
(name of party on behalf of whom instrument was executed).

~~Sworn to (or affirmed) and subscribed before me this _____~~
~~day of _____, (year) , by (name of person making statement)~~
~~—.~~

(Signature of Notary Public - State of Florida)
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

Verification pursuant to Section 92.525, Florida Statutes.

Under penalties of perjury, I declare that I have read the
foregoing and that the facts stated in it are true to the best
of my knowledge and belief.

(Signature of Natural Person Signing Above)

(5) (a) A notice of commencement that is recorded within

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449 the effective period may be amended to extend the effective
 450 period, change erroneous information in the original notice, or
 451 add information that was omitted from the original notice.
 452 However, in order to change contractors, a new notice of
 453 commencement or notice of recommencement must be executed and
 454 recorded.

455 (b) The amended notice must identify the official records
 456 book and page where the original notice of commencement is
 457 recorded, and a copy of the amended notice must be served by the
 458 owner upon the contractor and each lienor who serves notice
 459 before or within 30 days after the date the amended notice is
 460 recorded.

461 Section 9. Paragraph (a) of subsection (1) and paragraph
 462 (a) of subsection (6) of section 713.135, Florida Statutes, are
 463 amended to read:

464 713.135 Notice of commencement and applicability of
 465 lien.--

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

468 (a) Print on the face of each permit card in no less than
 469 14-point ~~18-point~~, capitalized, boldfaced type: "WARNING TO
 470 OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY
 471 RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A
 472 NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB
 473 SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN
 474 FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE
 475 RECORDING YOUR NOTICE OF COMMENCEMENT."

476 (6) (a) In addition to any other information required by

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477 the authority issuing the permit, the building permit
478 application must be in substantially the following form:

479
480 Tax Folio No. _____

481 BUILDING PERMIT APPLICATION

482

483 Owner's Name

484 Owner's Address

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

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

487 City

488 State _____ Zip _____

489 Contractor's Name

490 Contractor's Address

491 City

492 State _____ Zip _____

493 Job Name

494 Job Address

495 City _____ County _____

496 Legal Description

497 Bonding Company

498 Bonding Company Address

499 City _____ State _____

500 Architect/Engineer's Name

501 Architect/Engineer's Address

502 Mortgage Lender's Name

503 Mortgage Lender's Address

504

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

513
 514 OWNER'S AFFIDAVIT: I certify that all the foregoing information
 515 is accurate and that all work will be done in compliance with
 516 all applicable laws regulating construction and zoning.

517
 518
 519 WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF
 520 COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO
 521 YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
 522 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION.

523
 524
 525 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR
 526 AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF
 527 COMMENCEMENT.

528
 529 (Signature of Owner or Agent)

530
 531 (including contractor)

532 STATE OF FLORIDA

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533 COUNTY OF _____

534

535

536 Sworn to (or affirmed) and subscribed before me this _____

537 day of _____, (year) , by (name of person making statement)

538 .

539

540 (Signature of Notary Public - State of Florida)

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

542

543 Personally Known _____ OR Produced Identification _____

544

545 Type of Identification Produced _____

546 (Signature of Contractor)

547

548

549 STATE OF FLORIDA

550 COUNTY OF _____

551

552

553 Sworn to (or affirmed) and subscribed before me this _____

554 day of _____, (year) , by (name of person making statement)

555 .

556 (Signature of Notary Public - State of Florida)

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

558

559 Personally Known _____ OR Produced Identification _____

560

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561 Type of Identification Produced _____

562

563 (Certificate of Competency Holder)

564

565 Contractor's State Certification or Registration No. _____

566

567 Contractor's Certificate of Competency No. _____

568

569 APPLICATION APPROVED BY

570 _____ Permit Officer

571 Section 10. Subsections (2), (5), and (6) of section
572 713.16, Florida Statutes, are amended to read:

573 713.16 Demand for copy of contract and statements of
574 account; form.--

575 (2) The owner may serve in writing a demand of any lienor
576 for a written statement under oath of his or her account showing
577 the nature of the labor or services performed and to be
578 performed, if any, the materials furnished, the materials to be
579 furnished, if known, the amount paid on account to date, the
580 amount due, and the amount to become due, if known, as of the
581 date of the statement by the lienor. Any such demand to a lienor
582 must be served on the lienor at the address and to the attention
583 of any person who is designated to receive the demand in the
584 notice to owner served by such lienor. The failure or refusal to
585 furnish the statement does not deprive the lienor of his or her
586 lien if the demand is not served at the address of the lienor or
587 directed to the attention of the person designated to receive
588 the demand in the notice to owner. The failure or refusal to

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589 furnish the statement under oath within 30 days after the
 590 demand, or the furnishing of a false or fraudulent statement,
 591 deprives the person so failing or refusing to furnish such
 592 statement of his or her lien. If the owner serves more than one
 593 demand for statement of account on a lienor and none of the
 594 information regarding the account has changed since the lienor's
 595 last response to a demand, the failure or refusal to furnish
 596 such statement does not deprive the lienor of his or her lien.
 597 The negligent inclusion or omission of any information deprives
 598 the person of his or her lien to the extent the owner can
 599 demonstrate prejudice from such act or omission by the lienor.
 600 The failure to furnish a response to a demand for statement of
 601 account does not affect the validity of any claim of lien being
 602 enforced through a foreclosure case filed prior to the date the
 603 demand for statement is received by the lienor.

604 (5) (a) Any lienor who has recorded ~~filed~~ a claim of lien
 605 may make written demand on the owner for a written statement
 606 under oath showing:

607 1. The amount of the all direct contract under which the
 608 lien was recorded ~~contracts; the amount paid by or on behalf of~~
 609 ~~the owner for all labor, services, and materials furnished~~
 610 ~~pursuant to the direct contracts;~~

611 2. The dates and amounts paid or to be paid by or on
 612 behalf of the owner for all improvements described in the any
 613 direct contract ~~contracts; and~~

614 3. The reasonable estimated costs of completing the
 615 ~~according to the terms and specifications of same, any direct~~
 616 contract under which the lien was claimed pursuant to the scope

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617 of the direct contract; and ~~construction has ceased.~~

618 4. If known, the actual cost of completion ~~must be~~
619 ~~provided.~~

620 (b) Any owner who does not provide the statement within 30
621 days after demand, or who provides a false or fraudulent
622 statement, is not a prevailing party for purposes of an award of
623 attorney's fees under s. 713.29. The written demand must include
624 the following warning in conspicuous type in substantially the
625 following form:

626 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT
627 WITHIN 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL
628 RESULT IN THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY
629 ACTION TO ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING
630 THIS STATEMENT.

631 (6) For purposes of this section, the term "information"
632 means the nature and quantity of the labor, services, and
633 materials furnished or to be furnished by a lienor and the
634 amount paid, the amount due, and the amount to become due on the
635 lienor's account. ~~The failure to furnish the statement under~~
636 ~~eath does not constitute an omission of information and shall~~
637 ~~deprive the lienor of his or her lien.~~

638 Section 11. Section 713.18, Florida Statutes, is amended
639 to read:

640 713.18 Manner of serving notices and other instruments.--

641 (1) Service of notices, claims of lien, affidavits,
642 assignments, and other instruments permitted or required under
643 this part, or copies thereof when so permitted or required,
644 unless otherwise specifically provided in this part, must be

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645 made by one of the following methods:

646 (a) By actual delivery to the person to be served; ~~or~~, if
647 a partnership, to one of the partners; ~~or~~, if a corporation, to
648 an officer, director, managing agent, or business agent; or, if
649 a limited liability company, to a member or manager thereof.

650 (b) By sending the same by registered or certified mail,
651 with postage prepaid, or by overnight or second-day delivery
652 with evidence of delivery, which may be in an electronic format.

653 (c) If the method specified in paragraph (a) or paragraph
654 (b) cannot be accomplished, by posting on the premises.

655 (2)1. Notwithstanding subsection (1), if a notice to
656 owner, a notice to contractor under s. 713.23, or a preliminary
657 notice under s. 255.05 is mailed by registered or certified mail
658 with postage prepaid to the person to be served at any of the
659 addresses set forth in subsection (3) subparagraph 2. within 40
660 days after the date the lienor first furnishes labor, services,
661 or materials, service of that notice is effective as of the date
662 of mailing if the person who served the notice maintains a
663 registered or certified mail log that shows the registered or
664 certified mail number issued by the United States Postal
665 Service, the name and address of the person served, and the date
666 stamp of the United States Postal Service confirming the date of
667 mailing or if the person who served the notice maintains
668 electronic tracking records generated through use of the United
669 States Postal Service Confirm service or a similar service
670 containing the postal tracking number, the name and address of
671 the person served, and verification of the date of receipt by
672 the United States Postal Service.

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673 ~~(3)2-~~ If an instrument served pursuant to this section to
674 the last address shown in the notice of commencement or any
675 amendment thereto or, in the absence of a notice of
676 commencement, to the last address shown in the building permit
677 application, or to the last known address of the person to be
678 served, is not received, but is returned as being "refused,"
679 "moved, not forwardable," or "unclaimed," or is otherwise not
680 delivered or deliverable through no fault of the person serving
681 the item, then service is effective on the date the instrument
682 notice was sent.

683 ~~(c) If none of the foregoing methods can be accomplished,~~
684 ~~by posting on the premises.~~

685 ~~(4)2-~~ If the real property is owned by more than one
686 person or a partnership, a lienor may serve any notices or other
687 papers under this part on any one of such owners or partners,
688 and such notice is deemed notice to all owners and partners.

689 Section 12. Subsection (1) of section 713.22, Florida
690 Statutes, is amended to read:

691 713.22 Duration of lien.--

692 (1) No lien provided by this part shall continue for a
693 longer period than 1 year after the claim of lien has been
694 recorded or 1 year after the recording of an amended claim of
695 lien that shows a later date of final furnishing of labor,
696 services, or materials, unless within that time an action to
697 enforce the lien is commenced in a court of competent
698 jurisdiction. The continuation of the lien effected by the
699 commencement of the action shall not be good against creditors
700 or subsequent purchasers for a valuable consideration and

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701 without notice, unless a notice of lis pendens is recorded.
 702 Section 13. Paragraph (c) of subsection (2) of section
 703 713.31, is amended to read:
 704 713.31 Remedies in case of fraud or collusion.--
 705 (2)
 706 (c) An owner against whose interest in real property a
 707 fraudulent lien is filed, or any contractor, subcontractor, or
 708 sub-subcontractor who suffers damages as a result of the filing
 709 of the fraudulent lien, shall have a right of action for damages
 710 occasioned thereby. The action may be instituted independently
 711 of any other action, or in connection with a summons to show
 712 cause under s. 713.21, or as a counterclaim or cross-claim to
 713 any action to enforce or to determine the validity of the lien.
 714 The prevailing party in an action under this paragraph may
 715 recover reasonable attorney's fees and costs. If the lienor who
 716 files a fraudulent lien is not the prevailing party, the lienor
 717 shall be liable to the owner or the defrauded party who prevails
 718 in an action under this subsection in damages, which shall
 719 include court costs, clerk's fees, a reasonable attorney's fee
 720 and costs for services in securing the discharge of the lien,
 721 the amount of any premium for a bond given to obtain the
 722 discharge of the lien, interest on any money deposited for the
 723 purpose of discharging the lien, and punitive damages in an
 724 amount not exceeding the difference between the amount claimed
 725 by the lienor to be due or to become due and the amount actually
 726 due or to become due.
 727 Section 14. Section 713.36, Florida Statutes, is repealed.
 728 Section 15. This act shall take effect July 1, 2007.