



204056

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2009	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (7) of section 218.72, Florida
Statutes, is amended to read:

218.72 Definitions.—As used in this part:

(7) "Construction services" means all labor, services,
including architectural and engineering services, and materials
provided in connection with the construction, alteration,



204056

12 repair, demolition, reconstruction, or any other improvements to
13 real property.

14 Section 2. Subsection (6) of section 218.735, Florida
15 Statutes, is amended to read:

16 218.735 Timely payment for purchases of construction
17 services.—

18 (6) When a contractor receives payment from a local
19 governmental entity for labor, services, or materials furnished
20 by subcontractors and suppliers hired by the contractor, the
21 contractor shall remit payment due to those subcontractors and
22 suppliers within 10 days after the contractor's receipt of
23 payment. When a subcontractor receives payment from a contractor
24 for labor, services, or materials furnished by subcontractors
25 and suppliers hired by the subcontractor, the subcontractor
26 shall remit payment due to those subcontractors and suppliers
27 within 7 days after the subcontractor's receipt of payment.
28 Nothing herein shall prohibit a contractor or subcontractor from
29 disputing, pursuant to the terms of the relevant contract, all
30 or any portion of a payment alleged to be due to another party
31 if the contractor or subcontractor notifies the party whose
32 payment is disputed, in writing, of the amount in dispute and
33 the actions required to cure the dispute. The contractor or
34 subcontractor must pay all undisputed amounts due within the
35 time limits imposed by this section and verify such payment to
36 the local government.

37 Section 3. Subsection (1) and paragraph (a) of subsection
38 (2) of section 255.05, Florida Statutes, are amended to read:

39 255.05 Bond of contractor constructing public buildings;
40 form; action by materialmen.—



204056

41 (1) ~~(a)~~ Any person entering into a formal contract with the
42 state or any county, municipality ~~city~~, or political subdivision
43 thereof, or other public authority or private entity, for the
44 construction of a public building, for the prosecution and
45 completion of a public work, or for repairs upon a public
46 building or public work shall ~~be required~~, before commencing the
47 work or before recommencing the work after a default or
48 abandonment, ~~to execute~~ and, deliver to the public owner, ~~and~~
49 ~~record in the public records of the county where the improvement~~
50 ~~is located~~, a payment and performance bond with a surety insurer
51 authorized to do business in this state as surety.

52 (a) A public entity may not require a contractor to secure
53 a surety bond under this section from a specific agent or
54 bonding company.

55 (b) The bond must state on its front page: the name,
56 principal business address, and phone number of the contractor,
57 the surety, the owner of the property being improved, and, if
58 different from the owner, the contracting public entity; the
59 contract number assigned by the contracting public entity; the
60 bond number assigned by the surety; and a description of the
61 project sufficient to identify it, such as a legal description
62 or the street address of the property being improved, and a
63 general description of the improvement.

64 (c) Such bond shall be conditioned upon the contractor's
65 performance of the construction work in the time and manner
66 prescribed in the contract and promptly making payments to all
67 persons defined in s. 713.01 who furnish labor, services, or
68 materials for the prosecution of the work provided for in the
69 contract.



204056

70 (d) The contractor shall, upon issuance, record the payment
71 bond in the public records of the county in which the
72 improvement will be located.

73 (e)1. The issuing authority for the building permit, or a
74 private provider providing inspection services, may not inspect
75 the property being improved until:

76 a. The issuing authority has a copy of the contractor's
77 recorded payment bond on file; or

78 b. The contracting public entity has filed with the issuing
79 authority a notarized statement stating that the contract is
80 exempt from the requirement for a payment bond as provided in
81 this section.

82 2. This paragraph does not apply to inspections for the
83 installation of temporary electrical service or other temporary
84 utility service, land clearing, or other preliminary site work.

85 (f) Any claimant may apply to the governmental entity
86 having charge of the work for copies of the contract and bond
87 and shall thereupon be furnished with a certified copy of the
88 contract and bond. The claimant ~~has~~ ~~shall have~~ a right of action
89 against the contractor and surety for the amount due him or her,
90 including unpaid finance charges due under the claimant's
91 contract. Such action shall not involve the public authority in
92 any expense.

93 (g)1. A payment and performance bond is not required for a
94 contract with the state for \$100,000 or less. ~~When such work is~~
95 ~~done for the state and the contract is for \$100,000 or less, no~~
96 ~~payment and performance bond shall be required.~~

97 2. ~~At the discretion of~~ The official or board awarding a
98 such contract ~~when such work is done~~ for a county,



204056

99 municipality ~~city~~, political subdivision, or public authority
100 may exempt a contract, ~~any person entering into such a contract~~
101 which is for \$200,000 or less from the requirement for a ~~may be~~
102 ~~exempted from executing the~~ payment and performance bond.

103 3. ~~When such work is done for the state,~~ The Secretary of
104 Management Services may delegate to a state agency ~~agencies~~ the
105 authority to exempt ~~any person entering into such a contract for~~
106 ~~amounting to~~ more than \$100,000 but less than \$200,000 from the
107 requirement for a ~~executing the~~ payment and performance bond. If
108 ~~In the event~~ such exemption is granted, the officer or officials
109 are ~~shall~~ not ~~be~~ personally liable to persons suffering loss
110 because of granting such exemption. The Department of Management
111 Services shall maintain information on the number of requests by
112 state agencies for delegation of authority to waive the bond
113 requirements by agency and project number and whether any
114 request for delegation was denied and the justification for the
115 denial.

116 (h) Any provision in a payment bond furnished for public
117 work contracts as provided by this subsection which restricts
118 the classes of persons as defined in s. 713.01 protected by the
119 bond or the venue of any proceeding relating to such bond is
120 unenforceable.

121 (i) ~~(b)~~ The Department of Management Services shall adopt
122 rules with respect to all contracts for \$200,000 or less, to
123 provide:

124 1. Procedures for retaining up to 10 percent of each
125 request for payment submitted by a contractor and procedures for
126 determining disbursements from the amount retained on a pro rata
127 basis to laborers, materialmen, and subcontractors, as defined



204056

128 in s. 713.01.

129 2. Procedures for requiring certification from laborers,
130 materialmen, and subcontractors, as defined in s. 713.01, prior
131 to final payment to the contractor that such laborers,
132 materialmen, and subcontractors have no claims against the
133 contractor resulting from the completion of the work provided
134 for in the contract.

135

136 The state is ~~shall~~ not ~~be held~~ liable to any laborer,
137 materialman, or subcontractor for any amounts greater than the
138 pro rata share as determined under this section.

139 (j) ~~(e)~~ 1. The amount of the bond shall equal the contract
140 price, except that for a contract in excess of \$250 million, if
141 the state, county, municipality, political subdivision, or other
142 public entity finds that a bond in the amount of the contract
143 price is not reasonably available, the public owner shall set
144 the amount of the bond at the largest amount reasonably
145 available, but not less than \$250 million.

146 2. For construction-management or design-build contracts,
147 if the public owner does not include in the bond amount the cost
148 of design or other nonconstruction services, the bond may not be
149 conditioned on performance of such services or payment to
150 persons furnishing such services. Notwithstanding paragraph (h)
151 ~~(a)~~, such a bond may exclude persons furnishing such services
152 from the classes of persons protected by the bond.

153 (2) (a) 1. If a claimant is no longer furnishing labor,
154 services, or materials on a project, a contractor or the
155 contractor's agent or attorney may elect to shorten the
156 ~~prescribed time in this paragraph~~ within which an action to



204056

157 enforce any claim against a payment bond must ~~provided pursuant~~
158 ~~to this section may~~ be commenced by recording in the clerk's
159 office a notice in substantially the following form:

160
161 NOTICE OF CONTEST OF CLAIM
162 AGAINST PAYMENT BOND

163 To: ...(Name and address of claimant)...

164 You are notified that the undersigned contests your notice
165 of nonpayment, dated,, and served on the
166 undersigned on,, and that the time within
167 which you may file suit to enforce your claim is limited to 60
168 days after the date of service of this notice.

169 DATED on,

170 Signed:...(Contractor or Attorney)...

171 The claim of any claimant upon whom such notice is served and
172 who fails to institute a suit to enforce his or her claim
173 against the payment bond within 60 days after service of such
174 notice shall be extinguished automatically. The clerk shall
175 serve mail a copy of the notice of contest to the claimant at
176 the address shown in the notice of nonpayment or most recent
177 amendment thereto and shall certify to such service on the face
178 of such notice and record the notice. ~~Service is complete upon~~
179 ~~mailing.~~

180 2. A claimant, except a laborer, who is not in privity with
181 the contractor shall, before commencing or not later than 45
182 days after commencing to furnish labor, services, or materials
183 for the prosecution of the work, furnish the contractor with a
184 written notice that he or she intends to look to the bond for
185 protection. A claimant who is not in privity with the contractor



204056

186 and who has not received payment for his or her labor, services,
187 or materials shall deliver to the contractor and to the surety
188 written notice of the performance of the labor or delivery of
189 the materials or supplies and of the nonpayment. The notice of
190 nonpayment may be served at any time during the progress of the
191 work or thereafter but not before 45 days after the first
192 furnishing of labor, services, or materials, and not later than
193 90 days after the final furnishing of the labor, services, or
194 materials by the claimant or, with respect to rental equipment,
195 not later than 90 days after the date that the rental equipment
196 was last on the job site available for use. Any notice of
197 nonpayment served by a claimant who is not in privity with the
198 contractor which includes sums for retainage must specify the
199 portion of the amount claimed for retainage. An ~~No~~ action for
200 ~~the~~ labor, materials, or supplies may not be instituted against
201 the contractor or the surety unless both notices have been
202 given. Notices required or permitted under this section may be
203 served in accordance with s. 713.18. A claimant may not waive in
204 advance his or her right to bring an action under the bond
205 against the surety. In any action brought to enforce a claim
206 against a payment bond under this section, the prevailing party
207 is entitled to recover a reasonable fee for the services of his
208 or her attorney for trial and appeal or for arbitration, in an
209 amount to be determined by the court, which fee must be taxed as
210 part of the prevailing party's costs, as allowed in equitable
211 actions. The time periods for service of a notice of nonpayment
212 or for bringing an action against a contractor or a surety shall
213 be measured from the last day of furnishing labor, services, or
214 materials by the claimant and shall not be measured by other



204056

215 standards, such as the issuance of a certificate of occupancy or
216 the issuance of a certificate of substantial completion.

217 Section 4. Subsection (2) of section 255.072, Florida
218 Statutes, is amended to read:

219 255.072 Definitions.—As used in ss. 255.073–255.078, the
220 term:

221 (2) “Construction services” means all labor, services,
222 including architectural and engineering services, and materials
223 provided in connection with the construction, alteration,
224 repair, demolition, reconstruction, or any other improvements to
225 real property. The term “construction services” does not include
226 contracts or work performed for the Department of
227 Transportation.

228 Section 5. Subsection (3) of section 255.073, Florida
229 Statutes, is amended to read:

230 255.073 Timely payment for purchases of construction
231 services.—

232 (3) When a contractor receives payment from a public entity
233 for labor, services, or materials furnished by subcontractors
234 and suppliers hired by the contractor, the contractor shall
235 remit payment due to those subcontractors and suppliers within
236 10 days after the contractor’s receipt of payment. When a
237 subcontractor receives payment from a contractor for labor,
238 services, or materials furnished by subcontractors and suppliers
239 hired by the subcontractor, the subcontractor shall remit
240 payment due to those subcontractors and suppliers within 7 days
241 after the subcontractor’s receipt of payment. This subsection
242 does not prohibit a contractor or subcontractor from disputing,
243 pursuant to the terms of the relevant contract, all or any



204056

244 portion of a payment alleged to be due to another party if the
245 contractor or subcontractor notifies the party whose payment is
246 disputed, in writing, of the amount in dispute and the actions
247 required to cure the dispute. The contractor or subcontractor
248 must pay all undisputed amounts due within the time limits
249 imposed by this subsection and verify such payment to the local
250 government.

251 Section 6. Section 713.015, Florida Statutes, is amended to
252 read:

253 713.015 General statement of owner's right and
254 responsibilities ~~Mandatory provisions for direct contracts.-~~

255 (1) For any direct contract ~~greater than \$2,500~~ between an
256 owner and a contractor, related to improvements to real property
257 consisting of single or multiple family dwellings up to and
258 including four units, the contractor must provide the owner with
259 a copy of the signed and dated general statement of an owner's
260 rights and responsibilities under Florida's Construction Lien
261 Law as described in subsection (2), which must be contain the
262 following notice provision printed in no less than 12-point,
263 ~~capitalized, boldfaced type on the front page of the contract or~~
264 ~~on a separate page,~~ signed by the owner and dated, and submitted
265 with the original building permit application pursuant to s.
266 713.135. If the contractor applies for the building permit, the
267 contractor must provide to the owner a signed and dated copy of
268 the general statement of an owner's rights and
269 responsibilities.÷

270
271 ~~ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-~~
272 ~~713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR~~



204056

273 ~~PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A~~
274 ~~RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY.~~
275 ~~THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR~~
276 ~~OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-~~
277 ~~SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE PEOPLE WHO ARE OWED~~
278 ~~MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE~~
279 ~~ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR~~
280 ~~CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR~~
281 ~~PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE~~
282 ~~SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER~~
283 ~~SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED~~
284 ~~TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS~~
285 ~~CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS~~
286 ~~REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY~~
287 ~~PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER."~~
288 ~~FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS~~
289 ~~RECOMMENDED THAT YOU CONSULT AN ATTORNEY.~~

290 (2) The general statement of an owner's rights and
291 responsibilities under Florida's Construction Lien Law must be
292 in substantially the following form, must include the
293 information contained in the following form, and must include a
294 copy of a notice of commencement as provided in s. 713.13(1), a
295 waiver and release of lien upon progress payment as provided in
296 s. 713.20(4), a waiver and release of lien upon final payment as
297 provided in s. 713.20(5), a request for sworn statement of
298 account as provided in s. 713.16, and a contractor's final
299 payment affidavit as provided in s. 713.06(3):

300
301 GENERAL STATEMENT OF



204056

302 OWNER'S RIGHTS AND RESPONSIBILITIES
303 UNDER FLORIDA'S CONSTRUCTION LIEN LAW

304
305 ABOUT THIS DOCUMENT.—Florida law requires your contractor
306 to provide you with this document and the attached statutory
307 forms when you are contracting to make improvements to real
308 property. Therefore, it is critical that you have some
309 understanding of Florida's construction lien and payment laws
310 and take appropriate steps to protect your investment and
311 fulfill your obligations to those who provide labor and
312 materials for your project.

313
314 You must acknowledge that you have received and read this
315 document by signing on the signature page. The signed original
316 document must be delivered to the building permit authority,
317 along with the building permit application for your project.
318 Your building permit application will not be processed unless
319 this signed document is in the file. You need to retain a copy
320 of the filed document and the attached statutory forms so that
321 you can follow the procedures described in the document and
322 identify the proper statutory forms as you proceed with your
323 construction project. If your contractor applies for the
324 building permit, he or she must provide you with a copy of the
325 signed and dated general statement of an owner's rights and
326 responsibilities.

327
328 THE FLORIDA CONSTRUCTION LIEN LAW.—Part I of chapter 713,
329 Florida Statutes (F.S.), governs private construction projects
330 in this state. The complete text of this law can be found at



204056

331 www.leg.state.fl.us. This general statement is intended as a
332 guide and does not take precedence over the language of
333 Florida's Construction Lien Law.

334
335 Under this law, those who work on your property or provide
336 materials and services and who are not paid in full have a right
337 to enforce their claim for payment against your property. This
338 claim is known as a construction lien. If your contractor or a
339 subcontractor fails to pay subcontractors, sub-subcontractors,
340 or material suppliers, those people who are owed money may look
341 to your property for payment even if you have already paid your
342 contractor in full. If you fail to pay your contractor, your
343 contractor may also have a lien on your property. This means
344 that if a lien is filed, your property could be sold against
345 your will to pay for labor, materials, or other services that
346 your contractor or a subcontractor may have failed to pay.

347
348 The law also provides procedures to protect owners and
349 guarantee that you will never have to pay more than the amount
350 of your contract if you make proper payments. Although the
351 construction lien law has many complexities, the steps owners
352 can take to protect themselves and establish a "proper payment
353 defense" are simple, but very important.

354
355 STEP 1 - THE NOTICE OF COMMENCEMENT.-An owner is required
356 by law to complete, sign, and record in the public records an
357 accurate Notice of Commencement for all direct contracts that
358 exceed \$2,500, which notice provides certain specified
359 information. The information provided in the recorded Notice of



204056

360 Commencement is relied upon by all parties who provide labor and
361 materials to your project. A copy of the statutory Notice of
362 Commencement form, s. 713.13, F.S., is attached to this
363 document.

364
365 If a lender is financing your project, the lender will
366 assist you in completing the Notice of Commencement and is
367 responsible for recording it in the public records. It is
368 critical that your Notice of Commencement be recorded after any
369 construction loan or mortgage documents are recorded. If you do
370 not have a lender, preparing and recording the Notice of
371 Commencement is your responsibility. The Notice of Commencement
372 must be recorded before commencing construction and posted on
373 your jobsite. For most projects, a copy of the recorded Notice
374 of Commencement must be submitted to the building permit
375 authority before the first building inspection.

376
377 STEP 2 - MONITOR THE DOCUMENTS AND NOTICES YOU RECEIVE.-
378 Pick up your certified mail. Most lien notices are served by
379 certified mail and you need to know who is providing labor and
380 materials to your project. Section 713.18, F.S., provides that
381 any properly addressed notices that are returned to the sender
382 through no fault of the sender are considered served on the date
383 sent, so failing to claim certified mail only hurts you.

384
385 If you expect to be absent for periods of time during your
386 project, you should have an attorney or other agent in a
387 position of trust who understands the law handle these details
388 for you. Make sure someone is receiving your mail and taking



204056

389 steps to obtain the necessary lien releases before making
390 payments to your contractor. If you receive anything that you do
391 not understand, seek the assistance of an experienced
392 construction law attorney.

393

394 STEP 3 – OBTAIN SIGNED LIEN WAIVERS EACH TIME YOU MAKE A
395 PAYMENT TO YOUR CONTRACTOR.–Each time you pay your contractor
396 you should obtain a Waiver and Release of Lien form from the
397 contractor and from anyone who serves you with a Notice to
398 Owner. Make sure that each release waives lien rights against
399 your project for work or materials furnished through the date of
400 the work or materials that your payment covers. This date is
401 probably not the date you are making the payment, but a date
402 before the payment date through which labor and materials have
403 been billed.

404

405 UNDER FLORIDA LAW, YOU HAVE THE RIGHT TO WITHHOLD PAYMENTS
406 DUE TO THE CONTRACTOR UNTIL YOU HAVE BEEN PROVIDED WITH A
407 WRITTEN WAIVER AND RELEASE OF LIEN UPON PROGRESS PAYMENT FORM OR
408 A WRITTEN WAIVER AND RELEASE OF LIEN UPON FINAL PAYMENT FORM
409 SHOWING THAT THE LIENOR’S CLAIM FOR PAYMENT HAS BEEN PAID.

410

411 There are two statutory Waiver and Release of Lien forms.
412 The signed Waiver and Release of Lien Upon Progress Payment
413 should be submitted by a contractor, subcontractor, or material
414 supplier each time you make a payment to your contractor. The
415 signed Waiver and Release of Lien Upon Final Payment should be
416 submitted by your contractor, a subcontractor, or material
417 supplier when they are finished furnishing all work or materials



204056

418 for your project and have received final payment. For example,
419 when the plumber finishes all plumbing on your project and
420 receives final payment from the contractor, you should obtain a
421 Waiver and Release of Lien Upon Final Payment. Once you receive
422 a final waiver from a contractor, subcontractor, or material
423 supplier, you should not need another waiver unless they are
424 hired to do additional work. A copy of both statutory Waiver and
425 Release of Lien forms, s. 713.20, F.S., are attached to this
426 document.

427
428 STEP 4 - OBTAIN A CONTRACTOR'S FINAL PAYMENT AFFIDAVIT
429 BEFORE YOU MAKE FINAL PAYMENT TO YOUR CONTRACTOR.-In addition to
430 obtaining Final Waiver and Release of Lien forms from the
431 contractor and anyone who has served you with a Notice to Owner,
432 you should obtain a Contractor's Final Payment Affidavit before
433 you make final payment to your contractor. This sworn affidavit
434 should reflect that everyone who supplied labor and materials on
435 your project has been paid in full or should list those
436 subcontractors and suppliers who are still owed money. Make sure
437 that anyone listed as not being paid in full is paid before
438 making final payment to your contractor. You have a right to
439 rely on the information contained in the sworn affidavit when
440 you make final payment to your contractor with respect to any
441 lienor who has not served a Notice to Owner. A copy of the
442 statutory Contractor's Final Payment Affidavit form, s. 713.06,
443 F.S., is attached to this document.

444
445 IF YOU FOLLOW THESE FOUR SIMPLE STEPS, FLORIDA LAW WILL
446 PROTECT YOU AND YOU SHOULD NEVER HAVE TO PAY TWICE FOR THE SAME



204056

447 LABOR OR MATERIALS.

448
449 ADDITIONAL INFORMATION FOR YOUR PROTECTION

450
451 1. Always hire a Florida-licensed contractor. You can
452 verify the license status of your contractor by accessing the
453 website of the Department of Business and Professional
454 Regulation at www.myflorida.com/dbpr and performing a licensee
455 search. You can check under an individual name or, if your
456 contractor is a company, under the business name and then check
457 to see who the qualifying licensee is for that company.

458
459 2. Make sure that your contractor has the proper workers'
460 compensation coverage, or an allowed workers' compensation
461 exemption, and carries sufficient builder's risk or commercial
462 liability insurance. The contractor should be able to provide
463 you with current, valid certificates of insurance from his or
464 her insurance agent.

465
466 3. Use caution before accepting an obviously low bid. If it
467 seems too good to be true, it probably is, and your construction
468 project may be in trouble before you even begin.

469
470 4. Some contractors require a reasonable deposit to cover
471 the cost of plans and permitting. This is an acceptable
472 practice. However, you should use caution before paying
473 substantial sums to a contractor in advance of the work being
474 performed.



204056

476 5. At any time during the construction process if you need
477 contract or payment information from anyone providing labor,
478 services, or materials to your project, you have the right to
479 make a written request to them for a Sworn Statement of Account
480 to ascertain the nature of the work performed or to be
481 performed, the materials furnished or to be furnished, the
482 amounts paid or to be paid, or the amounts due or to become due
483 to them. The form for this written Request for Sworn Statement
484 of Account is attached to this statement. If you received a
485 Notice to Owner from the person to whom you wish to send such a
486 request, make sure you address the request to the person,
487 company, and address listed in the Notice to Owner. The request
488 must be served by you in accordance with lien law provisions
489 (usually by hand delivery, certified mail, or overnight
490 delivery) and you should make sure to request and keep the proof
491 of delivery.

492
493 6. If you receive documents or information that you do not
494 understand, consult an experienced construction law attorney.

495
496 7. Florida has a Homeowners' Construction Recovery Fund
497 that is funded through a portion of the building permit fees.
498 This fund helps consumers who have been harmed by a licensed
499 contractor. In order to be eligible to recover from this fund,
500 you must have complied with the proper payment procedures as
501 described in this document. For more information, contact the
502 Construction Industry Licensing Board at
503 www.myflorida.com/dbpr/pro/cilb.

504



204056

505 8. You have the right to require that a contractor furnish
506 a payment bond so that the owner is exempt from the Construction
507 Lien Law. If there is a payment bond, a lienor must file a claim
508 on the payment bond for payment rather than file a lien on the
509 property. However, if you require a payment bond, understand
510 that the payment bond will likely increase the cost of your
511 construction.

512
513 OWNER'S ACKNOWLEDGMENT AND RECEIPT

514
515 The undersigned owner(s) of Florida real property hereby
516 acknowledge that they are preparing to enter into a contract
517 with _____ for the
518 construction of real property improvements to the following-
519 described property (insert address or legal description):

520 _____

521

522 _____

523

524 ...(Signature of Property Owner).....(Date)...

525

526 ...(Signature of Property Owner).....(Date)...

527

528 Attached Statutory Forms:

529 Notice of Commencement

530 Waiver and Release of Lien Upon Progress Payment

531 Waiver and Release of Lien Upon Final Payment

532 Request for Sworn Statement of Account

533 Contractor's Final Payment Affidavit



204056

534 ~~(2) (a) If the contract is written, the notice must be in~~
535 ~~the contract document. If the contract is oral or implied, the~~
536 ~~notice must be provided in a document referencing the contract.~~

537 (3) (b) The failure to provide such written notice does not
538 bar the enforcement of a lien against a person who has not been
539 adversely affected.

540 (4) (e) This section may not be construed to adversely
541 affect the lien and bond rights of lienors who are not in
542 privity with the owner. This section does not apply when the
543 owner is a contractor licensed under chapter 489 or is a person
544 who created parcels or offers parcels for sale or lease in the
545 ordinary course of business.

546 Section 7. Paragraph (c) of subsection (2) of section
547 713.06, Florida Statutes, is amended to read:

548 713.06 Liens of persons not in privity; proper payments.—

549 (2)

550 (c) The notice may be in substantially the following form
551 and must include the information and the warning contained in
552 the following form:

553
554 WARNING! FLORIDA'S CONSTRUCTION LIEN LAW ALLOWS SOME
555 UNPAID CONTRACTORS, SUBCONTRACTORS, AND MATERIAL
556 SUPPLIERS TO FILE LIENS AGAINST YOUR PROPERTY EVEN IF
557 YOU HAVE MADE PAYMENT IN FULL.
558 UNDER FLORIDA LAW, YOUR FAILURE TO MAKE SURE THAT WE ARE PAID
559 MAY RESULT IN A LIEN AGAINST YOUR PROPERTY AND YOUR PAYING
560 TWICE.

561 TO PROTECT YOURSELF, EACH TIME YOU MAKE A PAYMENT TO THE
562 CONTRACTOR ASK YOUR CONTRACTOR TO PROVIDE YOU WITH A WRITTEN



204056

563 WAIVER AND RELEASE OF LIEN FROM US. FOR ADDITIONAL INFORMATION,
564 REFER TO THE GENERAL STATEMENT OF OWNER'S RIGHTS AND
565 RESPONSIBILITIES WHICH WAS PROVIDED TO YOU BY OUR CONTRACTOR AT
566 THE BEGINNING OF YOUR CONSTRUCTION PROJECT. AVOID A LIEN AND
567 PAYING TWICE, YOU MUST OBTAIN A WRITTEN RELEASE FROM US EVERY
568 TIME YOU PAY YOUR CONTRACTOR.

569 NOTICE TO OWNER

570
571 To ...(Owner's name and address)...

572
573 The undersigned hereby informs you that he or she has furnished
574 or is furnishing services or materials as follows:
575 ...(General description of services or materials)... for the
576 improvement of the real property identified as ...(property
577 description)... under an order given by.....

578 Florida law prescribes the serving of this notice and restricts
579 your right to make payments under your contract in accordance
580 with Section 713.06, Florida Statutes.

581 IMPORTANT INFORMATION FOR
582 YOUR PROTECTION

583
584 Under Florida's laws, those who work on your property or
585 provide materials and are not paid have a right to enforce their
586 claim for payment against your property. This claim is known as
587 a construction lien.

588 If your contractor fails to pay subcontractors or material
589 suppliers or neglects to make other legally required payments,
590 the people who are owed money may look to your property for
591 payment, EVEN IF YOU HAVE PAID YOUR CONTRACTOR IN FULL.



204056

621 by the person with whom the materialman contracted, other than
622 the site of the improvement, the delivery to the place
623 designated is prima facie evidence of delivery to the site of
624 the improvement and incorporation in the improvement. The single
625 claim of lien may be limited to a part of multiple lots,
626 parcels, or tracts of land and their improvements or may cover
627 all of the lots, parcels, units, or tracts of land and
628 improvements. ~~In each claim of lien under this section, the~~
629 ~~owner under the direct contract must be the same person for all~~
630 ~~lots, parcels, or tracts of land against which a single claim of~~
631 ~~lien is recorded.~~

632 Section 9. Section 713.13, Florida Statutes, is amended to
633 read:

634 713.13 Notice of commencement.—

635 (1) (a) Except for an improvement that is exempt pursuant to
636 s. 713.02(5), an owner or the owner's authorized agent before
637 actually commencing to improve any real property, or
638 recommencing completion of any improvement after default or
639 abandonment, whether or not a project has a payment bond
640 complying with s. 713.23, shall record a notice of commencement
641 in the clerk's office and forthwith post either a certified copy
642 thereof or a notarized statement that the notice of commencement
643 has been filed for recording along with a copy thereof. The
644 notice of commencement shall contain the following information:

645 1. A description sufficient for identification of the real
646 property to be improved. The description should include the
647 legal description of the property and also should include the
648 street address and tax folio number of the property if available
649 or, if there is no street address available, such additional



204056

650 information as will describe the physical location of the real
651 property to be improved.

652 2. A general description of the improvement.

653 3. The name and address of the owner, the owner's interest
654 in the site of the improvement, and the name and address of the
655 fee simple titleholder, if other than such owner.

656 4. The name and address of the contractor.

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

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

661 7. The name and address within the state of a person other
662 than himself or herself who may be designated by the owner as
663 the person upon whom notices or other documents may be served
664 under this part; and service upon the person so designated
665 constitutes service upon the owner.

666 (b) The owner, ~~at his or her option,~~ may designate a person
667 in addition to himself or herself to receive a copy of the
668 lienor's notice as provided in s. 713.06(2)(b), and if he or she
669 does so, the name and address of such person must be included in
670 the notice of commencement.

671 (c) A notice of commencement expires:

672 1. Ninety days after the day of the final furnishing of all
673 labor, services, and materials required by the direct contract,
674 including any change orders; or

675 2. On the effective date of a notice of termination that
676 has been served and recorded. ~~If the contract between the owner~~
677 ~~and a contractor named in the notice of commencement expresses a~~
678 ~~period of time for completion for the construction of the~~



204056

679 ~~improvement greater than 1 year, the notice of commencement must~~
680 ~~state that it is effective for a period of 1 year plus any~~
681 ~~additional period of time. Any payments made by the owner after~~
682 ~~the expiration of the notice of commencement are considered~~
683 ~~improper payments.~~

684 (d) A notice of commencement must be in substantially the
685 following form:

686 Permit No..... Tax Folio No.....

687 NOTICE OF COMMENCEMENT

688 State of....

689 County of....

690 The undersigned hereby gives notice that improvement will be
691 made to certain real property, and in accordance with Chapter
692 713, Florida Statutes, the following information is provided in
693 this Notice of Commencement.

694 1. Description of property: ...(legal description of the
695 property, and street address if available)....

696 2. General description of improvement:.....

697 3. Owner information:.....

698 a. Name and address:.....

699 b. Interest in property:.....

700 c. Name and address of fee simple titleholder (if other
701 than Owner):.....

702 4.a. Contractor: ...(name and address)....

703 b. Contractor's phone number:.....

704 5. Surety (a copy of the payment bond is attached, if the
705 project is bonded)

706 a. Name and address:.....

707 b. Phone number:.....



204056

708 c. Amount of bond: \$.....
709 6.a. Lender: ...(name and address)....
710 b. Lender's phone number:.....
711 7.a. Persons within the State of Florida designated by
712 Owner upon whom notices or other documents may be served as
713 provided by Section 713.13(1)(a)7., Florida Statutes: ...(name
714 and address)....
715 b. Phone numbers of designated persons:.....
716 8.a. In addition to himself or herself, Owner designates
717 of to receive a copy of the Lienor's
718 Notice as provided in Section 713.13(1)(b), Florida Statutes.
719 b. Phone number of person or entity designated by
720 owner:.....
721 9. This notice of commencement expires 90 days after the
722 day of the final furnishing of all labor, services, and
723 materials required by the direct contract, including any change
724 orders, or on the effective date of a notice of termination.
725 ~~Expiration date of notice of commencement (the expiration date~~
726 ~~is 1 year from the date of recording unless a different date is~~
727 ~~specified).....~~
728
729 WARNING TO OWNER: ~~ANY PAYMENTS MADE BY THE OWNER AFTER THE~~
730 ~~EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER~~
731 ~~PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA~~
732 ~~STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS~~
733 ~~TO YOUR PROPERTY.~~ A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
734 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU
735 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN
736 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF



204056

737 COMMENCEMENT.

738

739 Under penalty of perjury, I declare that I have read the
740 foregoing notice of commencement and that the facts stated
741 therein are true to the best of my knowledge and belief.

742

743 ... (Signature of Owner or Owner's Authorized
744 Officer/Director/Partner/Manager) ...

745 ... (Signatory's Title/Office) ...

746 The foregoing instrument was acknowledged before me this
747 day of, ... (year) ..., by ... (name of person) ... as ... (type
748 of authority, ... e.g. officer, trustee, attorney in fact) ... for
749 ... (name of party on behalf of whom instrument was executed)
750 ... (Signature of Notary Public - State of Florida) ...

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

752 Personally Known OR Produced Identification

753 Type of Identification Produced.....

754 ~~Verification pursuant to Section 92.525, Florida Statutes.~~

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

758 ~~... (Signature of Natural Person Signing Above) ...~~

759 (e) A copy of any payment bond must be attached at the time
760 of recordation of the notice of commencement. The failure to
761 attach a copy of the bond to the notice of commencement when the
762 notice is recorded negates the exemption provided in s.

763 713.02(6). However, if a payment bond under s. 713.23 exists but
764 was not attached at the time of recordation of the notice of
765 commencement, the bond may be used to transfer any recorded lien



204056

766 of a lienor except that of the contractor by the recordation and
767 service of a notice of bond pursuant to s. 713.23(2). The notice
768 requirements of s. 713.23 apply to any claim against the bond;
769 however, the time limits for serving any required notices shall
770 begin running from the later of the time specified in s. 713.23
771 or the date the notice of bond is served on the lienor.

772 (f) The giving of a notice of commencement is effective
773 upon the filing of the notice in the clerk's office.

774 (g) The owner must sign the notice of commencement and no
775 one else may be permitted to sign in his or her stead.

776 ~~(2) If the improvement described in the notice of~~
777 ~~commencement is not actually commenced within 90 days after the~~
778 ~~recording thereof, such notice is void and of no further effect.~~

779 (2)~~(3)~~ The recording of a notice of commencement does not
780 constitute a lien, cloud, or encumbrance on real property, but
781 gives constructive notice that claims of lien under this part
782 may be recorded and may take priority as provided in s. 713.07.
783 The posting of a copy does not constitute a lien, cloud, or
784 encumbrance on real property, nor actual or constructive notice
785 of any of them.

786 (3)~~(4)~~ This section does not apply to an owner who is
787 constructing improvements described in s. 713.04.

788 (4)~~(5)~~(a) A notice of commencement that is recorded within
789 the effective period may be amended ~~to extend the effective~~
790 ~~period,~~ change erroneous information in the original notice, or
791 add information that was omitted from the original notice.
792 However, in order to change contractors, a new notice of
793 commencement or notice of recommencement must be executed and
794 recorded.



204056

795 (b) The amended notice must identify the official records
796 book and page where the original notice of commencement is
797 recorded, and a copy of the amended notice must be served by the
798 owner upon the contractor and each lienor who serves notice
799 before or within 30 days after the date the amended notice is
800 recorded.

801 ~~(5)-(6) Unless otherwise provided in the notice of~~
802 ~~commencement or a new or amended notice of commencement, A~~
803 notice of commencement is not effectual in law or equity against
804 a conveyance, transfer, or mortgage of or lien on the real
805 property described in the notice, or against creditors or
806 subsequent purchasers for a valuable consideration, after the
807 expiration of 1 year after the date of recording the notice of
808 commencement.

809 ~~(6)-(7)~~ A lender must, prior to the disbursement of any
810 construction funds to the contractor, record the notice of
811 commencement in the clerk's office as required by this section;
812 however, the lender is not required to post a certified copy of
813 the notice at the construction site. The posting of the notice
814 at the construction site remains the owner's obligation. The
815 failure of a lender to record the notice of commencement as
816 required by this subsection renders the lender liable to the
817 owner for all damages sustained by the owner as a result of the
818 failure. Whenever a lender is required to record a notice of
819 commencement, the lender shall designate the lender, in addition
820 to others, to receive copies of notices to owner. This
821 subsection does not give any person other than the owner a claim
822 or right of action against a lender for failure to record a
823 notice of commencement.



204056

824 Section 10. Section 713.135, Florida Statutes, is amended
825 to read:

826 713.135 Notice of commencement and applicability of lien.—

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

829 (a) Require the applicant to submit the signed and dated
830 general statement of an owner's rights and responsibilities
831 under Florida's Construction Lien Law provided in s. 713.015 for
832 any single-family or multifamily dwelling up to and including
833 four units. A building permit application may not be processed
834 unless the signed document is in the file.

835 (b) ~~(a)~~ Print on the face of each permit card in no less
836 than 14-point, capitalized, boldfaced type: "WARNING TO OWNER:
837 IF YOU FAIL ~~YOUR FAILURE~~ TO RECORD A NOTICE OF COMMENCEMENT, YOU
838 MAY ~~PAY RESULT IN YOUR PAYING~~ TWICE FOR IMPROVEMENTS TO YOUR
839 PROPERTY. A NOTICE OF COMMENCEMENT, AND THE CONTRACTOR'S PAYMENT
840 BOND IF THE PROJECT IS BONDED, MUST BE RECORDED AND POSTED ON
841 THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO
842 OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE
843 RECORDING YOUR NOTICE OF COMMENCEMENT."

844 (c) ~~(b)~~ Make available to ~~Provide~~ the applicant and the
845 owner of the real property upon which improvements are to be
846 constructed copies of the general statement of an owner's rights
847 and responsibilities under Florida's ~~with a printed statement~~
848 stating that the right, title, and interest of the person who
849 has contracted for the improvement may be subject to attachment
850 under the Construction Lien Law as described in s. 713.015 with
851 the attached statutory forms. The issuing authority may make the
852 general statement and forms available in printed form, on the



204056

853 ~~Internet, or both. The Department of Business and Professional~~
854 ~~Regulation shall furnish, for distribution, the statement~~
855 ~~described in this paragraph, and the statement must be a summary~~
856 ~~of the Construction Lien Law and must include an explanation of~~
857 ~~the provisions of the Construction Lien Law relating to the~~
858 ~~recording, and the posting of copies, of notices of commencement~~
859 ~~and a statement encouraging the owner to record a notice of~~
860 ~~commencement and post a copy of the notice of commencement in~~
861 ~~accordance with s. 713.13. The statement must also contain an~~
862 ~~explanation of the owner's rights if a lienor fails to furnish~~
863 ~~the owner with a notice as provided in s. 713.06(2) and an~~
864 ~~explanation of the owner's rights as provided in s. 713.22. The~~
865 ~~authority that issues the building permit must obtain from the~~
866 ~~Department of Business and Professional Regulation the statement~~
867 ~~required by this paragraph and must mail, deliver by electronic~~
868 ~~mail or other electronic format or facsimile, or personally~~
869 ~~deliver that statement to the owner or, in a case in which the~~
870 ~~owner is required to personally appear to obtain the permit,~~
871 ~~provide that statement to any owner making improvements to real~~
872 ~~property consisting of a single or multiple family dwelling up~~
873 ~~to and including four units. However, the failure by the~~
874 ~~authorities to provide the summary does not subject the issuing~~
875 ~~authority to liability.~~

876 ~~(c) In addition to providing the owner with the statement~~
877 ~~as required by paragraph (b), inform each applicant who is not~~
878 ~~the person whose right, title, and interest is subject to~~
879 ~~attachment that, as a condition to the issuance of a building~~
880 ~~permit, the applicant must promise in good faith that the~~
881 ~~statement will be delivered to the person whose property is~~



204056

882 ~~subject to attachment.~~

883 ~~(d) Furnish to the applicant two or more copies of a form~~
884 ~~of notice of commencement conforming with s. 713.13. If the~~
885 ~~direct contract is greater than \$2,500, the applicant shall file~~
886 ~~with the issuing authority prior to the first inspection either~~
887 ~~a certified copy of the recorded notice of commencement or a~~
888 ~~notarized statement that the notice of commencement has been~~
889 ~~filed for recording, along with a copy thereof. In the absence~~
890 ~~of the filing of a certified copy of the recorded notice of~~
891 ~~commencement, the issuing authority or a private provider~~
892 ~~performing inspection services may not perform or approve~~
893 ~~subsequent inspections until the applicant files by mail,~~
894 ~~facsimile, hand delivery, or any other means such certified copy~~
895 ~~with the issuing authority. The certified copy of the notice of~~
896 ~~commencement must contain the name and address of the owner, the~~
897 ~~name and address of the contractor, and the location or address~~
898 ~~of the property being improved. The issuing authority shall~~

899 (d) Verify that the name and address of the owner, the name
900 of the contractor, and the location or address of the property
901 being improved which is contained in the certified copy of the
902 notice of commencement is consistent with the information in the
903 building permit application.

904 (e) Provide the recording information from the official
905 public records in which the notice of commencement and payment
906 bond, if any, are recorded to any person upon request. The
907 issuing authority shall provide the recording information on the
908 certified copy of the recorded notice of commencement to any
909 person upon request. This subsection does not require the
910 recording of a notice of commencement prior to the issuance of a



204056

911 ~~building permit. If a local government requires a separate~~
912 ~~permit or inspection for installation of temporary electrical~~
913 ~~service or other temporary utility service, land clearing, or~~
914 ~~other preliminary site work, such permits may be issued and such~~
915 ~~inspections may be conducted without providing the issuing~~
916 ~~authority with a certified copy of a recorded notice of~~
917 ~~commencement or a notarized statement regarding a recorded~~
918 ~~notice of commencement. This subsection does not apply to a~~
919 ~~direct contract to repair or replace an existing heating or air-~~
920 ~~conditioning system in an amount less than \$7,500.~~

921 ~~(f)(e) Not require that a notice of commencement be~~
922 ~~recorded as a condition of the application for, or processing or~~
923 ~~issuance of, a building permit. However, this paragraph does not~~
924 ~~modify or waive the inspection requirements set forth in this~~
925 ~~subsection.~~

926 (2) An issuing authority under subsection (1) is not liable
927 in any civil action for the failure of the person whose property
928 is subject to attachment to receive or to be delivered the
929 general statement of an owner's rights and responsibilities
930 under Florida's ~~a printed statement stating that the right,~~
931 ~~title, and interest of the person who has contracted for the~~
932 ~~improvement may be subject to attachment under the Construction~~
933 ~~Lien Law as provided in s. 713.015.~~

934 (3) An issuing authority under subsection (1) is not liable
935 in any civil action for the failure to verify that a certified
936 copy of the recorded notice of commencement has been filed in
937 accordance with this section.

938 (4) The several boards of county commissioners, municipal
939 councils, or other similar bodies may by ordinance or resolution



204056

940 establish reasonable fees for furnishing, upon request, copies
941 of the forms and the printed statement provided in paragraph
942 (1) (a) ~~paragraphs (1) (b) and (d)~~ in an amount not to exceed \$5
943 to be paid by the applicant for each permit in addition to all
944 other costs of the permit; ~~however, no forms or statement need~~
945 ~~be furnished, mailed, or otherwise provided to, nor may such~~
946 ~~additional fee be obtained from, applicants for permits in those~~
947 ~~eases in which the owner of a legal or equitable interest~~
948 ~~(including that of ownership of stock of a corporate landowner)~~
949 ~~of the real property to be improved is engaged in the business~~
950 ~~of construction of buildings for sale to others and intends to~~
951 ~~make the improvements authorized by the permit on the property~~
952 ~~and upon completion will offer the improved real property for~~
953 ~~sale.~~

954 (5) In addition to any other information required by the
955 authority issuing the permit, each building permit application
956 must contain:

957 (a) The name and address of the owner of the real property;

958 (b) The name and address of the contractor;

959 (c) A description sufficient to identify the real property
960 to be improved; and

961 (d) The number or identifying symbol assigned to the
962 building permit by the issuing authority, which number or symbol
963 must be affixed to the application by the issuing authority.

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

967
968 Tax Folio No. _____



204056

BUILDING PERMIT APPLICATION

969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997

Owner's Name
Owner's Address
Fee Simple Titleholder's Name (If other than owner)
Fee Simple Titleholder's Address (If other than owner)
City
State _____ Zip _____
Contractor's Name
Contractor's Address
City
State _____ Zip _____
Job Name
Job Address
City _____ County _____
Legal Description
Bonding Company
Bonding Company Address
City _____ State _____
Architect/Engineer's Name
Architect/Engineer's Address
Mortgage Lender's Name
Mortgage Lender's Address

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



204056

998 that a separate permit must be secured for ELECTRICAL WORK,
999 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,
1000 TANKS, and AIR CONDITIONERS, etc.

1001
1002 OWNER'S AFFIDAVIT: I certify that all the foregoing
1003 information is accurate and that all work will be done in
1004 compliance with all applicable laws regulating construction and
1005 zoning.

1006
1007 WARNING TO OWNER: IF YOU FAIL ~~YOUR FAILURE~~ TO RECORD A
1008 NOTICE OF COMMENCEMENT, YOU MAY PAY ~~RESULT IN YOUR PAYING~~ TWICE
1009 FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT, AND
1010 THE CONTRACTOR'S PAYMENT BOND IF THE PROJECT IS BONDED, MUST BE
1011 RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION.

1012
1013 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER
1014 OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE
1015 OF COMMENCEMENT.

1016
1017 (Signature of Owner or Agent)

1018
1019 (including contractor)

1020 STATE OF FLORIDA

1021 COUNTY OF _____

1022
1023 Sworn to (or affirmed) and subscribed before me this _____
1024 day of _____, (year), by (name of person making statement).

1025
1026 (Signature of Notary Public - State of Florida)



204056

1027 (Print, Type, or Stamp Commissioned Name of Notary Public)

1028

1029 Personally Known _____ OR Produced Identification _____

1030

1031 Type of Identification Produced _____

1032 (Signature of Contractor)

1033

1034 STATE OF FLORIDA

1035 COUNTY OF _____

1036

1037 Sworn to (or affirmed) and subscribed before me this _____

1038 day of _____, (year), by (name of person making statement).

1039 (Signature of Notary Public - State of Florida)

1040 (Print, Type, or Stamp Commissioned Name of Notary Public)

1041

1042 Personally Known _____ OR Produced Identification _____

1043

1044 Type of Identification Produced _____

1045

1046 (Certificate of Competency Holder)

1047

1048 Contractor's State Certification or Registration No. _____

1049

1050 Contractor's Certificate of Competency No. _____

1051

1052 APPLICATION APPROVED BY

1053 _____ Permit Officer

1054 (b) Consistent with the requirements of paragraph (a), an

1055 authority responsible for issuing building permits under this



204056

1056 section may accept a building permit application in an
1057 electronic format, as prescribed by the authority. Building
1058 permit applications submitted to the authority electronically
1059 must contain the following additional statement in lieu of the
1060 requirement in paragraph (a) that a signed, sworn, and notarized
1061 signature of the owner or agent and the contractor be part of
1062 the owner's affidavit:
1063

1064 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of
1065 perjury, I declare that all the information contained in this
1066 building permit application is true and correct.

1067 (c) An authority responsible for issuing building permit
1068 applications which accepts building permit applications in an
1069 electronic format shall provide public Internet access to the
1070 electronic building permit applications in a searchable format.

1071 (7) This section applies to every municipality and county
1072 in the state which now has or hereafter may have a system of
1073 issuing building permits for the construction of improvements or
1074 for the alteration or repair of improvements on or to real
1075 property located within the geographic limits of the issuing
1076 authority.

1077 Section 11. Section 713.137, Florida Statutes, is created
1078 to read:

1079 713.137 Prerequisites to inspection of improvements;
1080 exceptions.-

1081 (1) The authority issuing a building permit or a private
1082 provider providing inspection services may not inspect the real
1083 property being improved unless:

1084 (a) The following documents have been filed with the



204056

1085 issuing authority:
1086 1.a. A certified copy of the recorded notice of
1087 commencement; or
1088 b. A notarized statement that the notice of commencement
1089 has been filed for recording, along with a copy of the notice.
1090 2.a. A copy of the contractor's recorded payment bond; or
1091 b. A notarized statement of the contractor or owner stating
1092 that a payment bond was not required.
1093 3. A signed copy of the general statement of owner's rights
1094 and responsibilities under Florida's Construction Lien Law, if
1095 required by s. 713.015.
1096 (b) The information in the notice of commencement filed
1097 with the issuing authority is consistent with the building
1098 permit application, complete, and legible.
1099 (2) This section does not apply to inspections of the
1100 following improvements:
1101 (a) The installation of temporary electrical service or
1102 other temporary utility service, land clearing, or other
1103 preliminary site work.
1104 (b) Improvements pursuant to a direct contract in an amount
1105 of \$5,000 or less.
1106 (c) The repair or replacement of a heating or air-
1107 conditioning system pursuant to a direct contract in an amount
1108 of \$7,500 or less.
1109 (d) The installation of a solar hot water system pursuant
1110 to a direct contract of \$7,500 or less.
1111 Section 12. Section 713.16, Florida Statutes, is amended to
1112 read:
1113 713.16 Demand for copy of contract and statements of



204056

1114 account; form.

1115 (1) A copy of the contract of a lienor or owner and a
1116 statement of the amount due or to become due if fixed or
1117 ascertainable thereon must be furnished by any party thereto,
1118 upon written demand of an owner or a lienor contracting with or
1119 employed by the other party to such contract. If the owner or
1120 lienor refuses or neglects to furnish such copy of the contract
1121 or such statement, or willfully and falsely states the amount
1122 due or to become due if fixed or ascertainable under such
1123 contract, any person who suffers any detriment thereby has a
1124 cause of action against the person refusing or neglecting to
1125 furnish the same or willfully and falsely stating the amount due
1126 or to become due for his or her damages sustained thereby. The
1127 information contained in such copy or statement furnished
1128 pursuant to such written demand is binding upon the owner or
1129 lienor furnishing it unless actual notice of any modification is
1130 given to the person demanding the copy or statement before such
1131 person acts in good faith in reliance on it. The person
1132 demanding such documents must pay for the reproduction thereof;
1133 and, if such person fails or refuses to do so, he or she is
1134 entitled only to inspect such documents at reasonable times and
1135 places.

1136 (2) The owner may serve in writing a demand of any lienor
1137 for a written statement under oath of his or her account showing
1138 the nature of the labor or services performed and to be
1139 performed, if any, the materials furnished, the materials to be
1140 furnished, if known, the amount paid on account to date, the
1141 amount due, and the amount to become due, if known, as of the
1142 date of the statement by the lienor. Any such demand to a lienor



204056

1143 must be served on the lienor at the address and to the attention
1144 of any person who is designated to receive the demand in the
1145 notice to owner served by such lienor and must include a
1146 description of the project, including the names of the owner,
1147 the contractor, and the lienor's customer, sufficient for the
1148 lienor to properly identify the account in question. The failure
1149 or refusal to furnish the statement does not deprive the lienor
1150 of his or her lien if the demand is not served at the address of
1151 the lienor or directed to the attention of the person designated
1152 to receive the demand in the notice to owner. The failure or
1153 refusal to furnish the statement under oath within 30 days after
1154 the demand, or the furnishing of a false or fraudulent
1155 statement, deprives the person so failing or refusing to furnish
1156 such statement of his or her lien. If the owner serves more than
1157 one demand for statement of account on a lienor and none of the
1158 information regarding the account has changed since the lienor's
1159 last response to a demand, the failure or refusal to furnish
1160 such statement does not deprive the lienor of his or her lien.
1161 The negligent inclusion or omission of any information deprives
1162 the person of his or her lien to the extent the owner can
1163 demonstrate prejudice from such act or omission by the lienor.
1164 The failure to furnish a response to a demand for statement of
1165 account does not affect the validity of any claim of lien being
1166 enforced through a foreclosure case filed prior to the date the
1167 demand for statement is received by the lienor.

1168 (3) A request for sworn statement of account must be in
1169 substantially the following form:

1170

1171

REQUEST FOR SWORN STATEMENT OF ACCOUNT



204056

1172
1173 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT,
1174 SIGNED UNDER OATH, WITHIN 30 DAYS OR THE FURNISHING OF A FALSE
1175 STATEMENT WILL RESULT IN THE LOSS OF YOUR LIEN.

1176
1177 To: (Lienor's name and address)

1178
1179 The undersigned hereby demands a written statement under
1180 oath of his or her account showing the nature of the labor or
1181 services performed and to be performed, if any, the materials
1182 furnished, the materials to be furnished, if known, the amount
1183 paid on account to date, the amount due, and the amount to
1184 become due, if known, as of the date of the statement for the
1185 improvement of real property identified as (property
1186 description).

1187 Name of contractor:
1188 Name of the lienor's customer (as specified in the lienor's
1189 Notice to Owner, if such notice has been served):

1190 (signature and address of owner)
1191 (date of request for sworn statement of account)

1192 (4) When a contractor has furnished a payment bond pursuant
1193 to s. 713.23, he or she may, when an owner makes any payment to
1194 the contractor or directly to a lienor, serve a written demand
1195 on any other lienor for a written statement under oath of his or
1196 her account showing the nature of the labor or services
1197 performed and to be performed, if any, the materials furnished,
1198 the materials to be furnished, if known, the amount paid on
1199 account to date, the amount due, and the amount to become due,
1200 if known, as of the date of the statement by the lienor. Any



204056

1201 such demand to a lienor must be served on the lienor at the
1202 address and to the attention of any person who is designated to
1203 receive the demand in the notice to contractor served by such
1204 lienor. The failure or refusal to furnish the statement does not
1205 deprive the lienor of his or her rights under the bond if the
1206 demand is not served at the address of the lienor or directed to
1207 the attention of the person designated to receive the demand in
1208 the notice to contractor and does not include a description of
1209 the project, including the names of the owner, the contractor,
1210 and the lienor's customer as set forth in the lienor's notice to
1211 contractor, sufficient for the lienor to properly identify the
1212 account in question. The failure to furnish the statement within
1213 30 days after the demand, or the furnishing of a false or
1214 fraudulent statement, deprives the person who fails to furnish
1215 the statement, or who furnishes the false or fraudulent
1216 statement, of his or her rights under the bond. If the
1217 contractor serves more than one demand for statement of account
1218 on a lienor and none of the information regarding the account
1219 has changed since the lienor's last response to a demand, the
1220 failure or refusal to furnish such statement does not deprive
1221 the lienor of his or her rights under the bond. The negligent
1222 inclusion or omission of any information deprives the person of
1223 his or her rights under the bond to the extent the contractor
1224 can demonstrate prejudice from such act or omission by the
1225 lienor. The failure to furnish a response to a demand for
1226 statement of account does not affect the validity of any claim
1227 on the bond being enforced in a lawsuit filed prior to the date
1228 the demand for statement of account is received by the lienor.

1229 (5) (a) Any lienor who submits or mails ~~has recorded~~ a claim



204056

1230 of lien to the clerk for recording may make written demand on
1231 the owner for a written statement under oath showing:

1232 1. The amount of the direct contract under which the lien
1233 was recorded;

1234 2. The dates and amounts paid or to be paid by or on behalf
1235 of the owner for all improvements described in the direct
1236 contract;

1237 3. The reasonable estimated costs of completing the direct
1238 contract under which the lien was claimed pursuant to the scope
1239 of the direct contract; and

1240 4. If known, the actual cost of completion.

1241 (b) Any owner who does not provide the statement within 30
1242 days after demand, or who provides a false or fraudulent
1243 statement, is not a prevailing party for purposes of an award of
1244 attorney's fees under s. 713.29. The written demand must include
1245 the following warning in conspicuous type in substantially the
1246 following form:

1247 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT
1248 WITHIN 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL
1249 RESULT IN THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY
1250 ACTION TO ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING
1251 THIS STATEMENT.

1252 (6) Any written demand served on the owner shall include a
1253 description of the project, including the names of the
1254 contractor and the lienor's customer as set forth in the
1255 lienor's notice to owner, sufficient for the owner to properly
1256 identify the project in question.

1257 (7)~~(6)~~ For purposes of this section, the term "information"
1258 means the nature and quantity of the labor, services, and



204056

1259 materials furnished or to be furnished by a lienor and the
1260 amount paid, the amount due, and the amount to become due on the
1261 lienor's account.

1262 Section 13. Section 713.18, Florida Statutes, is amended to
1263 read:

1264 713.18 Manner of serving notices and other instruments.—

1265 (1) Service of notices, claims of lien, affidavits,
1266 assignments, and other instruments permitted or required under
1267 this part, or copies thereof when so permitted or required,
1268 unless otherwise specifically provided in this part, must be
1269 made by one of the following methods:

1270 (a) By actual delivery to the person to be served; if a
1271 partnership, to one of the partners; if a corporation, to an
1272 officer, director, managing agent, or business agent; or, if a
1273 limited liability company, to a member or manager.

1274 (b) By sending the same by common carrier delivery service
1275 or registered, global express guaranteed, or certified mail,
1276 with postage prepaid, and ~~or by overnight or second-day delivery~~
1277 with evidence of delivery, which may be in an electronic format.

1278 ~~(c) If the method specified in paragraph (a) or paragraph~~
1279 ~~(b) cannot be accomplished,~~ By posting on the site of the
1280 improvement if service as provided by paragraph (a) or paragraph
1281 (b) cannot be accomplished premises.

1282 (2) Notwithstanding subsection (1), service of ~~if~~ a notice
1283 to owner, a notice to contractor under s. 713.23, or a
1284 preliminary notice under s. 255.05 is ~~mailed by registered or~~
1285 ~~certified mail with postage prepaid to the person to be served~~
1286 ~~at any of the addresses set forth in subsection (3) within 40~~
1287 ~~days after the date the lienor first furnishes labor, services,~~



204056

1288 ~~or materials, service of that notice is~~ effective as of the date
1289 of mailing if:

1290 (a) The notice is mailed by registered, global express
1291 guaranteed, or certified mail, with postage prepaid, to the
1292 person to be served at any of the addresses set forth in
1293 subsection (3);

1294 (b) The notice is mailed within 40 days after the date the
1295 lienor first furnishes labor, services, or materials; and

1296 (c)1. The person who served the notice maintains a
1297 registered or certified mail log that shows the registered or
1298 certified mail number issued by the United States Postal
1299 Service, the name and address of the person served, and the date
1300 stamp of the United States Postal Service confirming the date of
1301 mailing; or ~~if~~

1302 2. The person who served the notice maintains electronic
1303 tracking records generated through use of the United States
1304 Postal Service Confirm service or a similar service containing
1305 the postal tracking number, the name and address of the person
1306 served, and verification of the date of receipt by the United
1307 States Postal Service.

1308 (3) (a) Service of ~~if~~ an instrument ~~served~~ pursuant to this
1309 section is effective on the date of mailing if the instrument:

1310 1. Was sent to the last address shown in the notice of
1311 commencement or any amendment thereto or, in the absence of a
1312 notice of commencement, to the last address shown in the
1313 building permit application, or to the last known address of the
1314 person to be served; and, ~~is not received, but~~

1315 2. Is returned as being "refused," "moved, not
1316 forwardable," or "unclaimed," or is otherwise not delivered or



204056

1317 deliverable through no fault of the person serving the item,
1318 ~~then service is effective on the date the instrument was sent.~~

1319 (b) If the address information shown in the notice of
1320 commencement or any amendment to the notice, or in the absence
1321 of a notice of commencement, in the building permit application,
1322 is incomplete for purposes of mailing or delivery, the person
1323 serving the item may complete the address and properly format it
1324 according to United States Postal Service addressing standards
1325 using information obtained from the property appraiser or
1326 another public record or directory without affecting the
1327 validity of service under this section.

1328 (4) A notice served by a lienor on one owner or one partner
1329 of a partnership owning the real property ~~If the real property~~
1330 ~~is owned by more than one person or a partnership, a lienor may~~
1331 ~~serve any notices or other papers under this part on any one of~~
1332 ~~such owners or partners, and such notice is deemed notice to all~~
1333 owners and partners.

1334 Section 14. Section 713.22, Florida Statutes, is amended to
1335 read:

1336 713.22 Duration of lien.—

1337 (1) A ~~No~~ lien provided by this part may not ~~shall~~ continue
1338 for a longer period than 1 year after the claim of lien has been
1339 recorded or 1 year after the recording of an amended claim of
1340 lien that shows a later date of final furnishing of labor,
1341 services, or materials, unless within that time an action to
1342 enforce the lien is commenced in a court of competent
1343 jurisdiction. A lien that has been continued beyond the 1-year
1344 period ~~The continuation of the lien effected by the commencement~~
1345 of an ~~the~~ action is ~~shall~~ not enforceable ~~be good~~ against



204056

1346 creditors or subsequent purchasers for a valuable consideration
1347 and without notice, unless a notice of lis pendens is recorded.

1348 (2) An owner or the owner's agent or attorney may elect to
1349 shorten the time prescribed in subsection (1) within which to
1350 commence an action to enforce any claim of lien or claim against
1351 a bond or other security under s. 713.23 or s. 713.24 by
1352 recording in the clerk's office a notice in substantially the
1353 following form:

1354
1355 NOTICE OF CONTEST OF LIEN
1356

1357 To: (Name and address of lienor)

1358 You are notified that the undersigned contests the claim of
1359 lien filed by you on _____, (year), and recorded in _____ Book
1360 _____, Page _____, of the public records of _____ County,
1361 Florida, and that the time within which you may file suit to
1362 enforce your lien is limited to 60 days from the date of service
1363 of this notice. This _____ day of _____, (year).

1364
1365 Signed: (Owner or Attorney)
1366

1367 The lien of any lienor upon whom such notice is served and
1368 who fails to institute a suit to enforce his or her lien within
1369 60 days after service of such notice shall be extinguished
1370 automatically. The clerk shall serve ~~mail~~ a copy of the notice
1371 of contest to the lien claimant at the address shown in the
1372 claim of lien or most recent amendment thereto and shall certify
1373 to such service on the face of such notice and record the
1374 notice. ~~Service shall be deemed complete upon mailing.~~



204056

1375 Section 15. Paragraph (e) of subsection (1) and subsections
1376 (2) and (4) of section 713.23, Florida Statutes, are amended to
1377 read:

1378 713.23 Payment bond.—

1379 (1)

1380 (e) An ~~Ne~~ action for the labor or materials or supplies may
1381 not be instituted or prosecuted against the contractor or surety
1382 unless both notices have been given. An ~~Ne~~ action may not ~~shall~~
1383 be instituted or prosecuted against the contractor or against
1384 the surety on the bond under this section after 1 year from the
1385 performance of the labor or completion of delivery of the
1386 materials and supplies. The time period for bringing an action
1387 against the contractor or surety on the bond shall be measured
1388 from the last day of furnishing labor, services, or materials by
1389 the lienor. The time period may ~~and shall~~ not be measured by
1390 other standards, such as the issuance of a certificate of
1391 occupancy or the issuance of a certificate of substantial
1392 completion. A contractor or the contractor's agent or attorney
1393 may elect to shorten the ~~prescribed~~ time within which an action
1394 to enforce any claim against a payment bond ~~provided~~ under this
1395 section or s. 713.245 must ~~may~~ be commenced at any time after a
1396 notice of nonpayment, if required, has been served for the claim
1397 by recording in the clerk's office a notice in substantially the
1398 following form:

1399
1400 NOTICE OF CONTEST OF CLAIM
1401 AGAINST PAYMENT BOND
1402

1403 To: (Name and address of lienor)



204056

1404 You are notified that the undersigned contests your notice
1405 of nonpayment, dated _____, _____, and served on the undersigned
1406 on _____, _____, and that the time within which you may file
1407 suit to enforce your claim is limited to 60 days from the date
1408 of service of this notice.

1409
1410 DATED on _____, _____.

1411
1412 Signed: (Contractor or Attorney)

1413
1414 The claim of any lienor upon whom the notice is served and
1415 who fails to institute a suit to enforce his or her claim
1416 against the payment bond within 60 days after service of the
1417 notice shall be extinguished automatically. The clerk shall
1418 serve mail a copy of the notice of contest to the lienor at the
1419 address shown in the notice of nonpayment or most recent
1420 amendment thereto and shall certify to such service on the face
1421 of the notice and record the notice. ~~Service is complete upon~~
1422 ~~mailing.~~

1423 (2) The bond shall secure every lien under the direct
1424 contract accruing subsequent to its execution and delivery,
1425 except that of the contractor. Every claim of lien, except that
1426 of the contractor, filed subsequent to execution and delivery of
1427 the bond shall be transferred to it with the same effect as
1428 liens transferred under s. 713.24. Record notice of the transfer
1429 shall be effected by the contractor, or any person having an
1430 interest in the property against which the claim of lien has
1431 been asserted, by recording in the clerk's office a notice in
1432 substantially the following form:



204056

1433
1434
1435
1436
1437
1438
1439
1440
1441
1442
1443
1444
1445
1446
1447
1448
1449
1450
1451
1452
1453
1454
1455
1456
1457
1458
1459
1460
1461

NOTICE OF BOND

To (Name and Address of Lienor)

You are notified that the claim of lien filed by you on _____, _____, and recorded in Official Records Book _____ at page _____ of the public records of _____ County, Florida, is secured by a bond, a copy being attached.

Signed: (Name of person recording notice)

The notice shall be verified. The clerk shall mail a copy of the notice to the lienor at the address shown in the claim of lien, or the most recent amendment to it; shall certify to the service on the face of the notice; and shall record the notice. The clerk shall receive the same fee as prescribed in s. 713.24 ~~s. 713.24(1)~~ for certifying to a transfer of lien.

(4) The provisions of s. 713.24(7) ~~s. 713.24(3)~~ shall apply to bonds under this section.

Section 16. Section 713.24, Florida Statutes, is amended to read:

713.24 Transfer of liens to security.-

(1) A ~~Any~~ lien claimed under this part may be transferred, by a ~~any~~ person having an interest in the real property upon which the lien is imposed or the contract under which the lien is claimed, from such real property to other security by ~~either~~:

- (a) Depositing in the clerk's office a sum of money; 7 or
- (b) Filing in the clerk's office a bond executed as surety



204056

1462 by a surety insurer licensed to do business in this state.7

1463 (2) The security must either to be in an amount equal: to

1464 (a) The amount demanded in the such claim of lien;7 plus

1465 (b) Interest on the claim thereon at the legal rate for 3
1466 years, plus \$1,000 or 25 percent of the amount demanded in the
1467 claim of lien, whichever is greater, to apply on any attorney's
1468 fees and court costs that may be taxed in any proceeding to
1469 enforce the said lien.

1470 (3) The security ~~Such deposit or bond~~ shall be conditioned
1471 to pay any judgment or decree that ~~which~~ may be rendered for the
1472 satisfaction of the lien ~~for which such claim of lien was~~
1473 ~~recorded.~~

1474 (4) A ~~Upon making such deposit or filing such bond,~~ the
1475 clerk who receives other security for a lien:

1476 (a) Shall make and record a certificate showing the
1477 transfer of the lien from the real property to the security. The
1478 clerk and shall serve mail a copy of the certificate and a copy
1479 of the bond, if the lien was transferred to a bond, on thereof
1480 ~~by registered or certified mail to the lienor named in the claim~~
1481 ~~of lien so transferred,~~ at the address stated in the claim
1482 ~~therein. When~~ ~~Upon filing~~ the certificate of transfer is
1483 recorded, the real property is ~~shall thereupon be~~ released from
1484 the lien claimed, and the such lien is ~~shall be~~ transferred to
1485 the other said security.

1486 (b) May collect a service charge of no more than \$20 for
1487 making and serving the certificate. The clerk may collect an
1488 additional charge of no more than \$10 for each additional lien
1489 transferred to the security. The clerk shall receive the
1490 statutory service charges as prescribed in s. 28.24 for



204056

1491 recording the certificate and approving the bond.

1492 (5) In the absence of allegations of privity between the
1493 lienor and the owner, and subject to any order of the court
1494 increasing the amount required for the lien transfer deposit or
1495 bond, no other judgment or decree to pay money may be entered by
1496 the court against the owner. ~~The clerk shall be entitled to a~~
1497 ~~service charge for making and serving the certificate, in the~~
1498 ~~amount of up to \$20. If the transaction involves the transfer of~~
1499 ~~multiple liens, an additional charge of up to \$10 for each~~
1500 ~~additional lien shall be charged. For recording the certificate~~
1501 ~~and approving the bond, the clerk shall receive her or his usual~~
1502 ~~statutory service charges as prescribed in s. 28.24. Any number~~
1503 ~~of liens may be transferred to one such security.~~

1504 (6)~~(2)~~ Any excess of the security over the aggregate amount
1505 of any judgments or decrees rendered plus costs actually taxed
1506 shall be repaid to the party filing the same or her or his
1507 successor in interest. Any deposit of money shall be considered
1508 as paid into court and is ~~shall be~~ subject to the provisions of
1509 law relative to payments of money into court and the disposition
1510 of same.

1511 (7)~~(3)~~ Any party having an interest in such security or the
1512 property from which the lien was transferred may at any time,
1513 and any number of times, file a complaint in chancery in the
1514 circuit court of the county where such security is deposited, or
1515 file a motion in a pending action to enforce a lien, for an
1516 order to require additional security, reduction of security,
1517 change or substitution of sureties, payment of discharge
1518 thereof, or any other matter affecting the ~~said~~ security. If the
1519 court finds that the amount of the deposit or bond in excess of



204056

1520 the amount claimed in the claim of lien is insufficient to pay
1521 the lienor's attorney's fees and court costs incurred in the
1522 action to enforce the lien, the court must increase the amount
1523 of the cash deposit or lien transfer bond. ~~Nothing in~~ This
1524 section does not ~~shall be construed to~~ vest exclusive
1525 jurisdiction in the circuit courts over transfer bond claims for
1526 nonpayment of an amount within the monetary jurisdiction of the
1527 county courts.

1528 (8)~~(4)~~ If a proceeding to enforce a transferred lien is not
1529 commenced within the time specified in s. 713.22 or if it
1530 appears that the transferred lien has been satisfied of record,
1531 the clerk shall return the ~~said~~ security upon request of the
1532 person depositing or filing the same, or the insurer. If a
1533 proceeding to enforce a lien is commenced in a court of
1534 competent jurisdiction within the time specified in s. 713.22
1535 and, during such proceeding, the lien is transferred pursuant to
1536 this section or s. 713.13(1)(e), an action commenced within 1
1537 year after the transfer, unless otherwise shortened by operation
1538 of law, in the same county or circuit court to recover against
1539 the security shall be deemed to have been brought as of the date
1540 of filing the action to enforce the lien, and the court has
1541 ~~shall have~~ jurisdiction over the action.

1542 Section 17. Effective upon this act becoming a law, section
1543 713.29, Florida Statutes, is amended to read:

1544 713.29 Attorney's fees.—In any action brought to enforce a
1545 lien or to enforce a claim against a bond under this part, the
1546 prevailing party is entitled to recover a reasonable fee for the
1547 services of her or his attorney for trial and appeal or for
1548 arbitration, in an amount to be determined by the court, which



204056

1549 fee must be taxed as part of the prevailing party's costs, ~~as~~
1550 ~~allowed in equitable actions.~~ A lienor is the prevailing party
1551 if the lienor obtains a net judgment in any action brought to
1552 enforce a lien or to enforce a claim against a bond after the
1553 deduction of any setoffs. A defendant is the prevailing party if
1554 the lienor does not obtain a net judgment after the deduction of
1555 any setoffs.

1556 Section 18. Except as otherwise expressly provided in this
1557 act, this act shall take effect July 1, 2009.

1558
1559 ===== T I T L E A M E N D M E N T =====

1560 And the title is amended as follows:

1561 Delete everything before the enacting clause
1562 and insert:

1563 A bill to be entitled
1564 An act relating to construction bonds; amending s.
1565 218.72, F.S.; clarifying the definition of
1566 "construction services"; amending s. 218.735, F.S.;
1567 requiring that contractors and subcontractors verify
1568 payments to local government agencies; amending s.
1569 255.05, F.S.; requiring that a surety record in the
1570 public records a payment bond for a public works
1571 construction project; requiring that the bond number
1572 be stated on the first page of a bond; prohibiting the
1573 issuing authority for a building permit or a private
1574 provider providing inspection services from inspecting
1575 the property being improved until the occurrence of
1576 certain events; providing that a payment and
1577 performance bond is not required for certain



204056

1578 contracts; authorizing certain entities to exempt
1579 certain contracts from the requirement for a payment
1580 and performance bond; requiring that the clerk of
1581 court serve a notice of contest of lien; amending s.
1582 255.072, F.S.; clarifying the definition of
1583 "construction services"; amending s. 255.073, F.S.;
1584 requiring that contractors and subcontractors verify
1585 payments to local government agencies; amending s.
1586 713.015, F.S.; requiring that a contractor provide an
1587 owner with a general statement of an owner's rights
1588 and responsibilities under Florida's Construction Lien
1589 Law; requiring that a signed copy of the statement be
1590 filed with the building permit application; specifying
1591 the form and content of the statement; deleting the
1592 requirement that notice be included in the direct
1593 contract between the contractor and the owner;
1594 amending s. 713.06, F.S.; revising the form of a
1595 notice for liens of persons not in privity; amending
1596 s. 713.09, F.S.; including units in provisions
1597 relating to a single claim of lien; deleting certain
1598 requirements relating to direct contracts; amending s.
1599 713.13, F.S.; providing for the expiration of a notice
1600 of commencement; revising the form of a notice of
1601 commencement; requiring the posting of a payment bond
1602 on a job site; amending s. 713.135, F.S.; revising the
1603 warning to the owner printed on certain permit cards;
1604 deleting a requirement relating to the filing a notice
1605 of commencement before certain inspections; revising
1606 the warning to the owner provided on a building permit



204056

1607 form; deleting provisions requiring the authority
1608 issuing a building permit to provide certain
1609 statements and information; creating s. 713.137, F.S.;
1610 prohibiting the authority issuing a building permit or
1611 a private provider providing inspection services from
1612 inspecting an improvement until certain documents have
1613 been filed and the information in the notice of
1614 commencement meets certain standards; providing
1615 exceptions; amending s. 713.16, F.S.; revising
1616 requirements for demands for a copy of a construction
1617 contract and a statement of account; authorizing a
1618 lienor who submits or mails a claim of lien to the
1619 clerk for recording to make certain demands to an
1620 owner for certain written statements; providing
1621 requirements for such written demands; amending s.
1622 713.18, F.S.; providing additional methods by which
1623 certain items may be served by mail; specifying
1624 information required on certain written instruments
1625 under certain circumstances; amending s. 713.22, F.S.;
1626 requiring that the clerk of court serve a notice of
1627 contest of lien; amending s. 713.23, F.S.; requiring
1628 that the clerk of court serve a notice of contest of
1629 nonpayment; conforming cross-references; amending s.
1630 713.24, F.S.; requiring that the clerk of court serve
1631 a copy of the certificate showing the transfer of a
1632 lien and a copy of the security if the lien is
1633 transferred to a security; authorizing a clerk to
1634 collect certain service charges under certain
1635 circumstances; amending s. 713.29, F.S.; clarifying



204056

1636
1637
1638

the determination of a prevailing party for the
purpose of recovering attorney's fees; providing
effective dates.