

By the Committee on Regulated Industries; and Senator Bennett

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1                                   A bill to be entitled  
2       An act relating to construction bonds; amending s.  
3       218.72, F.S.; clarifying the definition of  
4       "construction services"; amending s. 218.735, F.S.;  
5       requiring that contractors and subcontractors verify  
6       payments to local government agencies; amending s.  
7       255.05, F.S.; requiring that a surety record in the  
8       public records a payment bond for a public works  
9       construction project; requiring that the bond number  
10      be stated on the first page of a bond; prohibiting the  
11      issuing authority for a building permit or a private  
12      provider providing inspection services from inspecting  
13      the property being improved until the occurrence of  
14      certain events; providing that a payment and  
15      performance bond is not required for certain  
16      contracts; authorizing certain entities to exempt  
17      certain contracts from the requirement for a payment  
18      and performance bond; requiring that the clerk of  
19      court serve a notice of contest of lien; amending s.  
20      255.072, F.S.; clarifying the definition of  
21      "construction services"; amending s. 255.073, F.S.;  
22      requiring that contractors and subcontractors verify  
23      payments to local government agencies; amending s.  
24      713.015, F.S.; requiring that a contractor provide an  
25      owner with a general statement of an owner's rights  
26      and responsibilities under Florida's Construction Lien  
27      Law; requiring that a signed copy of the statement be  
28      filed with the building permit application; specifying  
29      the form and content of the statement; deleting the

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30 requirement that notice be included in the direct  
31 contract between the contractor and the owner;  
32 amending s. 713.06, F.S.; revising the form of a  
33 notice for liens of persons not in privity; amending  
34 s. 713.09, F.S.; including units in provisions  
35 relating to a single claim of lien; deleting certain  
36 requirements relating to direct contracts; amending s.  
37 713.13, F.S.; providing for the expiration of a notice  
38 of commencement; revising the form of a notice of  
39 commencement; requiring the posting of a payment bond  
40 on a job site; amending s. 713.135, F.S.; revising the  
41 warning to the owner printed on certain permit cards;  
42 deleting a requirement relating to the filing a notice  
43 of commencement before certain inspections; revising  
44 the warning to the owner provided on a building permit  
45 form; deleting provisions requiring the authority  
46 issuing a building permit to provide certain  
47 statements and information; creating s. 713.137, F.S.;  
48 prohibiting the authority issuing a building permit or  
49 a private provider providing inspection services from  
50 inspecting an improvement until certain documents have  
51 been filed and the information in the notice of  
52 commencement meets certain standards; providing  
53 exceptions; amending s. 713.16, F.S.; revising  
54 requirements for demands for a copy of a construction  
55 contract and a statement of account; authorizing a  
56 lienor who submits or mails a claim of lien to the  
57 clerk for recording to make certain demands to an  
58 owner for certain written statements; providing

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59 requirements for such written demands; amending s.  
60 713.18, F.S.; providing additional methods by which  
61 certain items may be served by mail; specifying  
62 information required on certain written instruments  
63 under certain circumstances; amending s. 713.22, F.S.;  
64 requiring that the clerk of court serve a notice of  
65 contest of lien; amending s. 713.23, F.S.; requiring  
66 that the clerk of court serve a notice of contest of  
67 nonpayment; conforming cross-references; amending s.  
68 713.24, F.S.; requiring that the clerk of court serve  
69 a copy of the certificate showing the transfer of a  
70 lien and a copy of the security if the lien is  
71 transferred to a security; authorizing a clerk to  
72 collect certain service charges under certain  
73 circumstances; amending s. 713.29, F.S.; clarifying  
74 the determination of a prevailing party for the  
75 purpose of recovering attorney's fees; providing  
76 effective dates.

77  
78 Be It Enacted by the Legislature of the State of Florida:

79  
80 Section 1. Subsection (7) of section 218.72, Florida  
81 Statutes, is amended to read:

82 218.72 Definitions.—As used in this part:

83 (7) "Construction services" means all labor, services,  
84 including architectural and engineering services, and materials  
85 provided in connection with the construction, alteration,  
86 repair, demolition, reconstruction, or any other improvements to  
87 real property.

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

90 218.735 Timely payment for purchases of construction  
91 services.—

92 (6) When a contractor receives payment from a local  
93 governmental entity for labor, services, or materials furnished  
94 by subcontractors and suppliers hired by the contractor, the  
95 contractor shall remit payment due to those subcontractors and  
96 suppliers within 10 days after the contractor's receipt of  
97 payment. When a subcontractor receives payment from a contractor  
98 for labor, services, or materials furnished by subcontractors  
99 and suppliers hired by the subcontractor, the subcontractor  
100 shall remit payment due to those subcontractors and suppliers  
101 within 7 days after the subcontractor's receipt of payment.  
102 Nothing herein shall prohibit a contractor or subcontractor from  
103 disputing, pursuant to the terms of the relevant contract, all  
104 or any portion of a payment alleged to be due to another party  
105 if the contractor or subcontractor notifies the party whose  
106 payment is disputed, in writing, of the amount in dispute and  
107 the actions required to cure the dispute. The contractor or  
108 subcontractor must pay all undisputed amounts due within the  
109 time limits imposed by this section and verify such payment to  
110 the local government.

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

113 255.05 Bond of contractor constructing public buildings;  
114 form; action by materialmen.—

115 (1)~~(a)~~ Any person entering into a formal contract with the  
116 state or any county, municipality ~~city~~, or political subdivision

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117 thereof, or other public authority or private entity, for the  
118 construction of a public building, for the prosecution and  
119 completion of a public work, or for repairs upon a public  
120 building or public work shall ~~be required~~, before commencing the  
121 work or before recommencing the work after a default or  
122 abandonment, ~~to execute~~ and, deliver to the public owner, ~~and~~  
123 ~~record in the public records of the county where the improvement~~  
124 ~~is located~~, a payment and performance bond with a surety insurer  
125 authorized to do business in this state as surety.

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

129 (b) The bond must state on its front page: the name,  
130 principal business address, and phone number of the contractor,  
131 the surety, the owner of the property being improved, and, if  
132 different from the owner, the contracting public entity; the  
133 contract number assigned by the contracting public entity; the  
134 bond number assigned by the surety; and a description of the  
135 project sufficient to identify it, such as a legal description  
136 or the street address of the property being improved, and a  
137 general description of the improvement.

138 (c) Such bond shall be conditioned upon the contractor's  
139 performance of the construction work in the time and manner  
140 prescribed in the contract and promptly making payments to all  
141 persons defined in s. 713.01 who furnish labor, services, or  
142 materials for the prosecution of the work provided for in the  
143 contract.

144 (d) The contractor shall, upon issuance, record the payment  
145 bond in the public records of the county in which the

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146 improvement will be located.

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

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

152 b. The contracting public entity has filed with the issuing  
153 authority a notarized statement stating that the contract is  
154 exempt from the requirement for a payment bond as provided in  
155 this section.

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

159 (f) Any claimant may apply to the governmental entity  
160 having charge of the work for copies of the contract and bond  
161 and shall thereupon be furnished with a certified copy of the  
162 contract and bond. The claimant has ~~shall have~~ a right of action  
163 against the contractor and surety for the amount due him or her,  
164 including unpaid finance charges due under the claimant's  
165 contract. Such action shall not involve the public authority in  
166 any expense.

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

171 2. ~~At the discretion of~~ The official or board awarding a  
172 ~~such~~ contract ~~when such work is done~~ for a any county,  
173 municipality ~~city~~, political subdivision, or public authority  
174 may exempt a contract, ~~any person entering into such a contract~~

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175 ~~which is~~ for \$200,000 or less from the requirement for a ~~may be~~  
176 ~~exempted from executing the~~ payment and performance bond.

177 3. ~~When such work is done for the state,~~ The Secretary of  
178 Management Services may delegate to a state agency ~~agencies~~ the  
179 authority to exempt ~~any person entering into such~~ a contract for  
180 ~~amounting to~~ more than \$100,000 but less than \$200,000 from the  
181 requirement for a ~~executing the~~ payment and performance bond. If  
182 ~~In the event~~ such exemption is granted, the officer or officials  
183 are ~~shall~~ not ~~be~~ personally liable to persons suffering loss  
184 because of granting such exemption. The Department of Management  
185 Services shall maintain information on the number of requests by  
186 state agencies for delegation of authority to waive the bond  
187 requirements by agency and project number and whether any  
188 request for delegation was denied and the justification for the  
189 denial.

190 (h) Any provision in a payment bond furnished for public  
191 work contracts as provided by this subsection which restricts  
192 the classes of persons as defined in s. 713.01 protected by the  
193 bond or the venue of any proceeding relating to such bond is  
194 unenforceable.

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

198 1. Procedures for retaining up to 10 percent of each  
199 request for payment submitted by a contractor and procedures for  
200 determining disbursements from the amount retained on a pro rata  
201 basis to laborers, materialmen, and subcontractors, as defined  
202 in s. 713.01.

203 2. Procedures for requiring certification from laborers,

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204 materialmen, and subcontractors, as defined in s. 713.01, prior  
205 to final payment to the contractor that such laborers,  
206 materialmen, and subcontractors have no claims against the  
207 contractor resulting from the completion of the work provided  
208 for in the contract.

209

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

213 (j)~~(e)~~1. The amount of the bond shall equal the contract  
214 price, except that for a contract in excess of \$250 million, if  
215 the state, county, municipality, political subdivision, or other  
216 public entity finds that a bond in the amount of the contract  
217 price is not reasonably available, the public owner shall set  
218 the amount of the bond at the largest amount reasonably  
219 available, but not less than \$250 million.

220 2. For construction-management or design-build contracts,  
221 if the public owner does not include in the bond amount the cost  
222 of design or other nonconstruction services, the bond may not be  
223 conditioned on performance of such services or payment to  
224 persons furnishing such services. Notwithstanding paragraph (h)  
225 ~~(a)~~, such a bond may exclude persons furnishing such services  
226 from the classes of persons protected by the bond.

227 (2) (a)1. If a claimant is no longer furnishing labor,  
228 services, or materials on a project, a contractor or the  
229 contractor's agent or attorney may elect to shorten the  
230 ~~prescribed time in this paragraph~~ within which an action to  
231 enforce any claim against a payment bond must ~~provided pursuant~~  
232 ~~to this section~~ may be commenced by recording in the clerk's

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233 office a notice in substantially the following form:

234

235 NOTICE OF CONTEST OF CLAIM

236 AGAINST PAYMENT BOND

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

238 You are notified that the undersigned contests your notice  
239 of nonpayment, dated ....., ....., and served on the  
240 undersigned on ....., ....., and that the time within  
241 which you may file suit to enforce your claim is limited to 60  
242 days after the date of service of this notice.

243 DATED on ....., .....

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

245 The claim of any claimant upon whom such notice is served and  
246 who fails to institute a suit to enforce his or her claim  
247 against the payment bond within 60 days after service of such  
248 notice shall be extinguished automatically. The clerk shall  
249 serve mail a copy of the notice of contest to the claimant at  
250 the address shown in the notice of nonpayment or most recent  
251 amendment thereto and shall certify to such service on the face  
252 of such notice and record the notice. ~~Service is complete upon~~  
253 ~~mailing.~~

254 2. A claimant, except a laborer, who is not in privity with  
255 the contractor shall, before commencing or not later than 45  
256 days after commencing to furnish labor, services, or materials  
257 for the prosecution of the work, furnish the contractor with a  
258 written notice that he or she intends to look to the bond for  
259 protection. A claimant who is not in privity with the contractor  
260 and who has not received payment for his or her labor, services,  
261 or materials shall deliver to the contractor and to the surety

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262 written notice of the performance of the labor or delivery of  
263 the materials or supplies and of the nonpayment. The notice of  
264 nonpayment may be served at any time during the progress of the  
265 work or thereafter but not before 45 days after the first  
266 furnishing of labor, services, or materials, and not later than  
267 90 days after the final furnishing of the labor, services, or  
268 materials by the claimant or, with respect to rental equipment,  
269 not later than 90 days after the date that the rental equipment  
270 was last on the job site available for use. Any notice of  
271 nonpayment served by a claimant who is not in privity with the  
272 contractor which includes sums for retainage must specify the  
273 portion of the amount claimed for retainage. An ~~No~~ action for  
274 ~~the~~ labor, materials, or supplies may not be instituted against  
275 the contractor or the surety unless both notices have been  
276 given. Notices required or permitted under this section may be  
277 served in accordance with s. 713.18. A claimant may not waive in  
278 advance his or her right to bring an action under the bond  
279 against the surety. In any action brought to enforce a claim  
280 against a payment bond under this section, the prevailing party  
281 is entitled to recover a reasonable fee for the services of his  
282 or her attorney for trial and appeal or for arbitration, in an  
283 amount to be determined by the court, which fee must be taxed as  
284 part of the prevailing party's costs, as allowed in equitable  
285 actions. The time periods for service of a notice of nonpayment  
286 or for bringing an action against a contractor or a surety shall  
287 be measured from the last day of furnishing labor, services, or  
288 materials by the claimant and shall not be measured by other  
289 standards, such as the issuance of a certificate of occupancy or  
290 the issuance of a certificate of substantial completion.

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

293 255.072 Definitions.—As used in ss. 255.073–255.078, the  
294 term:

295 (2) "Construction services" means all labor, services,  
296 including architectural and engineering services, and materials  
297 provided in connection with the construction, alteration,  
298 repair, demolition, reconstruction, or any other improvements to  
299 real property. The term "construction services" does not include  
300 contracts or work performed for the Department of  
301 Transportation.

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

304 255.073 Timely payment for purchases of construction  
305 services.—

306 (3) When a contractor receives payment from a public entity  
307 for labor, services, or materials furnished by subcontractors  
308 and suppliers hired by the contractor, the contractor shall  
309 remit payment due to those subcontractors and suppliers within  
310 10 days after the contractor's receipt of payment. When a  
311 subcontractor receives payment from a contractor for labor,  
312 services, or materials furnished by subcontractors and suppliers  
313 hired by the subcontractor, the subcontractor shall remit  
314 payment due to those subcontractors and suppliers within 7 days  
315 after the subcontractor's receipt of payment. This subsection  
316 does not prohibit a contractor or subcontractor from disputing,  
317 pursuant to the terms of the relevant contract, all or any  
318 portion of a payment alleged to be due to another party if the  
319 contractor or subcontractor notifies the party whose payment is

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320 disputed, in writing, of the amount in dispute and the actions  
 321 required to cure the dispute. The contractor or subcontractor  
 322 must pay all undisputed amounts due within the time limits  
 323 imposed by this subsection and verify such payment to the local  
 324 government.

325 Section 6. Section 713.015, Florida Statutes, is amended to  
 326 read:

327 713.015 General statement of owner's right and  
 328 responsibilities ~~Mandatory provisions for direct contracts.-~~

329 (1) For any direct contract ~~greater than \$2,500~~ between an  
 330 owner and a contractor, related to improvements to real property  
 331 consisting of single or multiple family dwellings up to and  
 332 including four units, the contractor must provide the owner with  
 333 a copy of the signed and dated general statement of an owner's  
 334 rights and responsibilities under Florida's Construction Lien  
 335 Law as described in subsection (2), which must be contain the  
 336 ~~following notice provision printed in no less than 12-point,~~  
 337 ~~capitalized, boldfaced type on the front page of the contract or~~  
 338 ~~on a separate page, signed by the owner and dated, and submitted~~  
 339 with the original building permit application pursuant to s.  
 340 713.135. If the contractor applies for the building permit, the  
 341 contractor must provide to the owner a signed and dated copy of  
 342 the general statement of an owner's rights and  
 343 responsibilities.÷

344  
 345 ~~ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-~~  
 346 ~~713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR~~  
 347 ~~PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A~~  
 348 ~~RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY.~~

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349 ~~THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR~~  
 350 ~~OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-~~  
 351 ~~SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE PEOPLE WHO ARE OWED~~  
 352 ~~MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE~~  
 353 ~~ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR~~  
 354 ~~CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR~~  
 355 ~~PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE~~  
 356 ~~SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER~~  
 357 ~~SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED~~  
 358 ~~TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS~~  
 359 ~~CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS~~  
 360 ~~REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY~~  
 361 ~~PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER."~~  
 362 ~~FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS~~  
 363 ~~RECOMMENDED THAT YOU CONSULT AN ATTORNEY.~~

364 (2) The general statement of an owner's rights and  
 365 responsibilities under Florida's Construction Lien Law must be  
 366 in substantially the following form, must include the  
 367 information contained in the following form, and must include a  
 368 copy of a notice of commencement as provided in s. 713.13(1), a  
 369 waiver and release of lien upon progress payment as provided in  
 370 s. 713.20(4), a waiver and release of lien upon final payment as  
 371 provided in s. 713.20(5), a request for sworn statement of  
 372 account as provided in s. 713.16, and a contractor's final  
 373 payment affidavit as provided in s. 713.06(3):

374  
 375 GENERAL STATEMENT OF  
 376 OWNER'S RIGHTS AND RESPONSIBILITIES  
 377 UNDER FLORIDA'S CONSTRUCTION LIEN LAW

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378

379 ABOUT THIS DOCUMENT.—Florida law requires your contractor  
380 to provide you with this document and the attached statutory  
381 forms when you are contracting to make improvements to real  
382 property. Therefore, it is critical that you have some  
383 understanding of Florida’s construction lien and payment laws  
384 and take appropriate steps to protect your investment and  
385 fulfill your obligations to those who provide labor and  
386 materials for your project.

387

388 You must acknowledge that you have received and read this  
389 document by signing on the signature page. The signed original  
390 document must be delivered to the building permit authority,  
391 along with the building permit application for your project.  
392 Your building permit application will not be processed unless  
393 this signed document is in the file. You need to retain a copy  
394 of the filed document and the attached statutory forms so that  
395 you can follow the procedures described in the document and  
396 identify the proper statutory forms as you proceed with your  
397 construction project. If your contractor applies for the  
398 building permit, he or she must provide you with a copy of the  
399 signed and dated general statement of an owner’s rights and  
400 responsibilities.

401

402 THE FLORIDA CONSTRUCTION LIEN LAW.—Part I of chapter 713,  
403 Florida Statutes (F.S.), governs private construction projects  
404 in this state. The complete text of this law can be found at  
405 www.leg.state.fl.us. This general statement is intended as a  
406 guide and does not take precedence over the language of

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407 Florida's Construction Lien Law.

408  
409 Under this law, those who work on your property or provide  
410 materials and services and who are not paid in full have a right  
411 to enforce their claim for payment against your property. This  
412 claim is known as a construction lien. If your contractor or a  
413 subcontractor fails to pay subcontractors, sub-subcontractors,  
414 or material suppliers, those people who are owed money may look  
415 to your property for payment even if you have already paid your  
416 contractor in full. If you fail to pay your contractor, your  
417 contractor may also have a lien on your property. This means  
418 that if a lien is filed, your property could be sold against  
419 your will to pay for labor, materials, or other services that  
420 your contractor or a subcontractor may have failed to pay.

421  
422 The law also provides procedures to protect owners and  
423 guarantee that you will never have to pay more than the amount  
424 of your contract if you make proper payments. Although the  
425 construction lien law has many complexities, the steps owners  
426 can take to protect themselves and establish a "proper payment  
427 defense" are simple, but very important.

428  
429 STEP 1 - THE NOTICE OF COMMENCEMENT.-An owner is required  
430 by law to complete, sign, and record in the public records an  
431 accurate Notice of Commencement for all direct contracts that  
432 exceed \$2,500, which notice provides certain specified  
433 information. The information provided in the recorded Notice of  
434 Commencement is relied upon by all parties who provide labor and  
435 materials to your project. A copy of the statutory Notice of

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436 Commencement form, s. 713.13, F.S., is attached to this  
437 document.

438  
439 If a lender is financing your project, the lender will  
440 assist you in completing the Notice of Commencement and is  
441 responsible for recording it in the public records. It is  
442 critical that your Notice of Commencement be recorded after any  
443 construction loan or mortgage documents are recorded. If you do  
444 not have a lender, preparing and recording the Notice of  
445 Commencement is your responsibility. The Notice of Commencement  
446 must be recorded before commencing construction and posted on  
447 your jobsite. For most projects, a copy of the recorded Notice  
448 of Commencement must be submitted to the building permit  
449 authority before the first building inspection.

450  
451 STEP 2 – MONITOR THE DOCUMENTS AND NOTICES YOU RECEIVE.–  
452 Pick up your certified mail. Most lien notices are served by  
453 certified mail and you need to know who is providing labor and  
454 materials to your project. Section 713.18, F.S., provides that  
455 any properly addressed notices that are returned to the sender  
456 through no fault of the sender are considered served on the date  
457 sent, so failing to claim certified mail only hurts you.

458  
459 If you expect to be absent for periods of time during your  
460 project, you should have an attorney or other agent in a  
461 position of trust who understands the law handle these details  
462 for you. Make sure someone is receiving your mail and taking  
463 steps to obtain the necessary lien releases before making  
464 payments to your contractor. If you receive anything that you do

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465 not understand, seek the assistance of an experienced  
466 construction law attorney.

467  
468 STEP 3 - OBTAIN SIGNED LIEN WAIVERS EACH TIME YOU MAKE A  
469 PAYMENT TO YOUR CONTRACTOR.-Each time you pay your contractor  
470 you should obtain a Waiver and Release of Lien form from the  
471 contractor and from anyone who serves you with a Notice to  
472 Owner. Make sure that each release waives lien rights against  
473 your project for work or materials furnished through the date of  
474 the work or materials that your payment covers. This date is  
475 probably not the date you are making the payment, but a date  
476 before the payment date through which labor and materials have  
477 been billed.

478  
479 UNDER FLORIDA LAW, YOU HAVE THE RIGHT TO WITHHOLD PAYMENTS  
480 DUE TO THE CONTRACTOR UNTIL YOU HAVE BEEN PROVIDED WITH A  
481 WRITTEN WAIVER AND RELEASE OF LIEN UPON PROGRESS PAYMENT FORM OR  
482 A WRITTEN WAIVER AND RELEASE OF LIEN UPON FINAL PAYMENT FORM  
483 SHOWING THAT THE LIENOR'S CLAIM FOR PAYMENT HAS BEEN PAID.

484  
485 There are two statutory Waiver and Release of Lien forms.  
486 The signed Waiver and Release of Lien Upon Progress Payment  
487 should be submitted by a contractor, subcontractor, or material  
488 supplier each time you make a payment to your contractor. The  
489 signed Waiver and Release of Lien Upon Final Payment should be  
490 submitted by your contractor, a subcontractor, or material  
491 supplier when they are finished furnishing all work or materials  
492 for your project and have received final payment. For example,  
493 when the plumber finishes all plumbing on your project and

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494 receives final payment from the contractor, you should obtain a  
495 Waiver and Release of Lien Upon Final Payment. Once you receive  
496 a final waiver from a contractor, subcontractor, or material  
497 supplier, you should not need another waiver unless they are  
498 hired to do additional work. A copy of both statutory Waiver and  
499 Release of Lien forms, s. 713.20, F.S., are attached to this  
500 document.

501

502 STEP 4 - OBTAIN A CONTRACTOR'S FINAL PAYMENT AFFIDAVIT  
503 BEFORE YOU MAKE FINAL PAYMENT TO YOUR CONTRACTOR.-In addition to  
504 obtaining Final Waiver and Release of Lien forms from the  
505 contractor and anyone who has served you with a Notice to Owner,  
506 you should obtain a Contractor's Final Payment Affidavit before  
507 you make final payment to your contractor. This sworn affidavit  
508 should reflect that everyone who supplied labor and materials on  
509 your project has been paid in full or should list those  
510 subcontractors and suppliers who are still owed money. Make sure  
511 that anyone listed as not being paid in full is paid before  
512 making final payment to your contractor. You have a right to  
513 rely on the information contained in the sworn affidavit when  
514 you make final payment to your contractor with respect to any  
515 lienor who has not served a Notice to Owner. A copy of the  
516 statutory Contractor's Final Payment Affidavit form, s. 713.06,  
517 F.S., is attached to this document.

518

519 IF YOU FOLLOW THESE FOUR SIMPLE STEPS, FLORIDA LAW WILL  
520 PROTECT YOU AND YOU SHOULD NEVER HAVE TO PAY TWICE FOR THE SAME  
521 LABOR OR MATERIALS.

522

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523                   ADDITIONAL INFORMATION FOR YOUR PROTECTION

524

525           1. Always hire a Florida-licensed contractor. You can  
526 verify the license status of your contractor by accessing the  
527 website of the Department of Business and Professional  
528 Regulation at [www.myflorida.com/dbpr](http://www.myflorida.com/dbpr) and performing a licensee  
529 search. You can check under an individual name or, if your  
530 contractor is a company, under the business name and then check  
531 to see who the qualifying licensee is for that company.

532

533           2. Make sure that your contractor has the proper workers'  
534 compensation coverage, or an allowed workers' compensation  
535 exemption, and carries sufficient builder's risk or commercial  
536 liability insurance. The contractor should be able to provide  
537 you with current, valid certificates of insurance from his or  
538 her insurance agent.

539

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

543

544           4. Some contractors require a reasonable deposit to cover  
545 the cost of plans and permitting. This is an acceptable  
546 practice. However, you should use caution before paying  
547 substantial sums to a contractor in advance of the work being  
548 performed.

549

550           5. At any time during the construction process if you need  
551 contract or payment information from anyone providing labor,

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552 services, or materials to your project, you have the right to  
553 make a written request to them for a Sworn Statement of Account  
554 to ascertain the nature of the work performed or to be  
555 performed, the materials furnished or to be furnished, the  
556 amounts paid or to be paid, or the amounts due or to become due  
557 to them. The form for this written Request for Sworn Statement  
558 of Account is attached to this statement. If you received a  
559 Notice to Owner from the person to whom you wish to send such a  
560 request, make sure you address the request to the person,  
561 company, and address listed in the Notice to Owner. The request  
562 must be served by you in accordance with lien law provisions  
563 (usually by hand delivery, certified mail, or overnight  
564 delivery) and you should make sure to request and keep the proof  
565 of delivery.

566  
567 6. If you receive documents or information that you do not  
568 understand, consult an experienced construction law attorney.  
569

570 7. Florida has a Homeowners' Construction Recovery Fund  
571 that is funded through a portion of the building permit fees.  
572 This fund helps consumers who have been harmed by a licensed  
573 contractor. In order to be eligible to recover from this fund,  
574 you must have complied with the proper payment procedures as  
575 described in this document. For more information, contact the  
576 Construction Industry Licensing Board at  
577 [www.myflorida.com/dbpr/pro/cilb](http://www.myflorida.com/dbpr/pro/cilb).  
578

579 8. You have the right to require that a contractor furnish  
580 a payment bond so that the owner is exempt from the Construction

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581 Lien Law. If there is a payment bond, a lienor must file a claim  
 582 on the payment bond for payment rather than file a lien on the  
 583 property. However, if you require a payment bond, understand  
 584 that the payment bond will likely increase the cost of your  
 585 construction.

586  
 587 OWNER'S ACKNOWLEDGMENT AND RECEIPT  
 588

589 The undersigned owner(s) of Florida real property hereby  
 590 acknowledge that they are preparing to enter into a contract  
 591 with \_\_\_\_\_ for the  
 592 construction of real property improvements to the following-  
 593 described property (insert address or legal description):

594 \_\_\_\_\_  
 595  
 596 \_\_\_\_\_

597  
 598 ...(Signature of Property Owner).....(Date)...

599  
 600 ...(Signature of Property Owner).....(Date)...

601  
 602 Attached Statutory Forms:

603 Notice of Commencement

604 Waiver and Release of Lien Upon Progress Payment

605 Waiver and Release of Lien Upon Final Payment

606 Request for Sworn Statement of Account

607 Contractor's Final Payment Affidavit

608 ~~(2) (a) If the contract is written, the notice must be in~~  
 609 ~~the contract document. If the contract is oral or implied, the~~

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610 ~~notice must be provided in a document referencing the contract.~~

611 (3)~~(b)~~ The failure to provide such written notice does not  
612 bar the enforcement of a lien against a person who has not been  
613 adversely affected.

614 (4)~~(e)~~ This section may not be construed to adversely  
615 affect the lien and bond rights of lienors who are not in  
616 privity with the owner. This section does not apply when the  
617 owner is a contractor licensed under chapter 489 or is a person  
618 who created parcels or offers parcels for sale or lease in the  
619 ordinary course of business.

620 Section 7. Paragraph (c) of subsection (2) of section  
621 713.06, Florida Statutes, is amended to read:

622 713.06 Liens of persons not in privity; proper payments.—

623 (2)

624 (c) The notice may be in substantially the following form  
625 and must include the information and the warning contained in  
626 the following form:

627

628 WARNING! FLORIDA'S CONSTRUCTION LIEN LAW ALLOWS SOME  
629 UNPAID CONTRACTORS, SUBCONTRACTORS, AND MATERIAL  
630 SUPPLIERS TO FILE LIENS AGAINST YOUR PROPERTY EVEN IF  
631 YOU HAVE MADE PAYMENT IN FULL.

632 UNDER FLORIDA LAW, YOUR FAILURE TO MAKE SURE THAT WE ARE PAID  
633 MAY RESULT IN A LIEN AGAINST YOUR PROPERTY AND YOUR PAYING  
634 TWICE.

635 TO PROTECT YOURSELF, EACH TIME YOU MAKE A PAYMENT TO THE  
636 CONTRACTOR ASK YOUR CONTRACTOR TO PROVIDE YOU WITH A WRITTEN  
637 WAIVER AND RELEASE OF LIEN FROM US. FOR ADDITIONAL INFORMATION,  
638 REFER TO THE GENERAL STATEMENT OF OWNER'S RIGHTS AND

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639 RESPONSIBILITIES WHICH WAS PROVIDED TO YOU BY OUR CONTRACTOR AT  
 640 THE BEGINNING OF YOUR CONSTRUCTION PROJECT. ~~AVOID A LIEN AND~~  
 641 ~~PAYING TWICE, YOU MUST OBTAIN A WRITTEN RELEASE FROM US EVERY~~  
 642 ~~TIME YOU PAY YOUR CONTRACTOR.~~

643 NOTICE TO OWNER

644  
645 To ... (Owner's name and address) ...

646  
647 The undersigned hereby informs you that he or she has furnished  
648 or is furnishing services or materials as follows:

649 ... (General description of services or materials) ... for the  
650 improvement of the real property identified as ... (property  
651 description) ... under an order given by.....

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

655 IMPORTANT INFORMATION FOR  
656 YOUR PROTECTION

657  
658 Under Florida's laws, those who work on your property or  
659 provide materials and are not paid have a right to enforce their  
660 claim for payment against your property. This claim is known as  
661 a construction lien.

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

666 PROTECT YOURSELF:

667 -RECOGNIZE that this Notice to Owner may result in a lien

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668 against your property unless all those supplying a Notice to  
 669 Owner have been paid.

670 -LEARN more about the Construction Lien Law, Chapter 713,  
 671 Part I, Florida Statutes, and the meaning of this notice by  
 672 contacting an attorney or the Florida Department of Business and  
 673 Professional Regulation.

674 ... (Lienor's Signature) ...  
 675 ... (Lienor's Name) ...  
 676 ... (Lienor's Address) ...

677  
 678 Copies to: ... (Those persons listed in Section 713.06(2) (a) and  
 679 (b), Florida Statutes) ...

680 The form may be combined with a notice to contractor given under  
 681 s. 255.05 or s. 713.23 and, if so, may be entitled "NOTICE TO  
 682 OWNER/NOTICE TO CONTRACTOR."

683 Section 8. Section 713.09, Florida Statutes, is amended to  
 684 read:

685 713.09 Single claim of lien.—A lienor may ~~is required to~~  
 686 record only one claim of lien covering his or her entire demand  
 687 against the real property when the amount demanded is for labor  
 688 or services or material furnished for more than one improvement  
 689 ~~under the same direct contract~~. The single claim of lien is  
 690 sufficient even though the improvement is for one or more  
 691 improvements located on separate lots, parcels, units, or tracts  
 692 of land. If materials to be used on one or more improvements on  
 693 separate lots, parcels, units, or tracts of land ~~under one~~  
 694 ~~direct contract~~ are delivered by a lienor to a place designated  
 695 by the person with whom the materialman contracted, other than  
 696 the site of the improvement, the delivery to the place

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697 designated is prima facie evidence of delivery to the site of  
698 the improvement and incorporation in the improvement. The single  
699 claim of lien may be limited to a part of multiple lots,  
700 parcels, or tracts of land and their improvements or may cover  
701 all of the lots, parcels, units, or tracts of land and  
702 improvements. ~~In each claim of lien under this section, the~~  
703 ~~owner under the direct contract must be the same person for all~~  
704 ~~lots, parcels, or tracts of land against which a single claim of~~  
705 ~~lien is recorded.~~

706 Section 9. Section 713.13, Florida Statutes, is amended to  
707 read:

708 713.13 Notice of commencement.—

709 (1) (a) Except for an improvement that is exempt pursuant to  
710 s. 713.02(5), an owner or the owner's authorized agent before  
711 actually commencing to improve any real property, or  
712 recommencing completion of any improvement after default or  
713 abandonment, whether or not a project has a payment bond  
714 complying with s. 713.23, shall record a notice of commencement  
715 in the clerk's office and forthwith post either a certified copy  
716 thereof or a notarized statement that the notice of commencement  
717 has been filed for recording along with a copy thereof. The  
718 notice of commencement shall contain the following information:

719 1. A description sufficient for identification of the real  
720 property to be improved. The description should include the  
721 legal description of the property and also should include the  
722 street address and tax folio number of the property if available  
723 or, if there is no street address available, such additional  
724 information as will describe the physical location of the real  
725 property to be improved.

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726 2. A general description of the improvement.

727 3. The name and address of the owner, the owner's interest  
728 in the site of the improvement, and the name and address of the  
729 fee simple titleholder, if other than such owner.

730 4. The name and address of the contractor.

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

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

735 7. The name and address within the state of a person other  
736 than himself or herself who may be designated by the owner as  
737 the person upon whom notices or other documents may be served  
738 under this part; and service upon the person so designated  
739 constitutes service upon the owner.

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

745 (c) A notice of commencement expires:

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

749 2. On the effective date of a notice of termination that  
750 has been served and recorded. ~~If the contract between the owner~~  
751 ~~and a contractor named in the notice of commencement expresses a~~  
752 ~~period of time for completion for the construction of the~~  
753 ~~improvement greater than 1 year, the notice of commencement must~~  
754 ~~state that it is effective for a period of 1 year plus any~~

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755 ~~additional period of time. Any payments made by the owner after~~  
 756 ~~the expiration of the notice of commencement are considered~~  
 757 ~~improper payments.~~

758 (d) A notice of commencement must be in substantially the  
 759 following form:

760 Permit No..... Tax Folio No.....

761 NOTICE OF COMMENCEMENT

762 State of....

763 County of....

764 The undersigned hereby gives notice that improvement will be  
 765 made to certain real property, and in accordance with Chapter  
 766 713, Florida Statutes, the following information is provided in  
 767 this Notice of Commencement.

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

770 2. General description of improvement:.....

771 3. Owner information:.....

772 a. Name and address:.....

773 b. Interest in property:.....

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

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

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

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

780 a. Name and address:.....

781 b. Phone number:.....

782 c. Amount of bond: \$.....

783 6.a. Lender: ...(name and address)....

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784 b. Lender's phone number:.....

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

789 b. Phone numbers of designated persons:.....

790 8.a. In addition to himself or herself, Owner designates  
791 ..... of ..... to receive a copy of the Lienor's  
792 Notice as provided in Section 713.13(1)(b), Florida Statutes.

793 b. Phone number of person or entity designated by  
794 owner:.....

795 9. This notice of commencement expires 90 days after the  
796 day of the final furnishing of all labor, services, and  
797 materials required by the direct contract, including any change  
798 orders, or on the effective date of a notice of termination.  
799 ~~Expiration date of notice of commencement (the expiration date~~  
800 ~~is 1 year from the date of recording unless a different date is~~  
801 ~~specified).....~~

802  
803 ~~WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE~~  
804 ~~EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER~~  
805 ~~PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA~~  
806 ~~STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS~~  
807 ~~TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND~~  
808 ~~POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU~~  
809 ~~INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN~~  
810 ~~ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF~~  
811 ~~COMMENCEMENT.~~

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

816  
 817           ...(Signature of Owner or Owner's Authorized  
 818 Officer/Director/Partner/Manager)...

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

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

824           ...(Signature of Notary Public - State of Florida)...

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

826           Personally Known .... OR Produced Identification ....

827           Type of Identification Produced.....

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

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

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

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

837 713.02(6). However, if a payment bond under s. 713.23 exists but  
 838 was not attached at the time of recordation of the notice of  
 839 commencement, the bond may be used to transfer any recorded lien  
 840 of a lienor except that of the contractor by the recordation and  
 841 service of a notice of bond pursuant to s. 713.23(2). The notice

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842 requirements of s. 713.23 apply to any claim against the bond;  
843 however, the time limits for serving any required notices shall  
844 begin running from the later of the time specified in s. 713.23  
845 or the date the notice of bond is served on the lienor.

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

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

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

853 (2)~~(3)~~ The recording of a notice of commencement does not  
854 constitute a lien, cloud, or encumbrance on real property, but  
855 gives constructive notice that claims of lien under this part  
856 may be recorded and may take priority as provided in s. 713.07.  
857 The posting of a copy does not constitute a lien, cloud, or  
858 encumbrance on real property, nor actual or constructive notice  
859 of any of them.

860 (3)~~(4)~~ This section does not apply to an owner who is  
861 constructing improvements described in s. 713.04.

862 (4)~~(5)~~ (a) A notice of commencement that is recorded within  
863 the effective period may be amended ~~to extend the effective~~  
864 ~~period,~~ change erroneous information in the original notice, or  
865 add information that was omitted from the original notice.  
866 However, in order to change contractors, a new notice of  
867 commencement or notice of recommencement must be executed and  
868 recorded.

869 (b) The amended notice must identify the official records  
870 book and page where the original notice of commencement is

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871 recorded, and a copy of the amended notice must be served by the  
872 owner upon the contractor and each lienor who serves notice  
873 before or within 30 days after the date the amended notice is  
874 recorded.

875 ~~(5) (6) Unless otherwise provided in the notice of~~  
876 ~~commencement or a new or amended notice of commencement, A~~  
877 notice of commencement is not effectual in law or equity against  
878 a conveyance, transfer, or mortgage of or lien on the real  
879 property described in the notice, or against creditors or  
880 subsequent purchasers for a valuable consideration, after the  
881 expiration of 1 year after the date of recording the notice of  
882 commencement.

883 ~~(6) (7)~~ A lender must, prior to the disbursement of any  
884 construction funds to the contractor, record the notice of  
885 commencement in the clerk's office as required by this section;  
886 however, the lender is not required to post a certified copy of  
887 the notice at the construction site. The posting of the notice  
888 at the construction site remains the owner's obligation. The  
889 failure of a lender to record the notice of commencement as  
890 required by this subsection renders the lender liable to the  
891 owner for all damages sustained by the owner as a result of the  
892 failure. Whenever a lender is required to record a notice of  
893 commencement, the lender shall designate the lender, in addition  
894 to others, to receive copies of notices to owner. This  
895 subsection does not give any person other than the owner a claim  
896 or right of action against a lender for failure to record a  
897 notice of commencement.

898 Section 10. Section 713.135, Florida Statutes, is amended  
899 to read:

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900 713.135 Notice of commencement and applicability of lien.-

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

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

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

918 (c)~~(b)~~ Make available to Provide the applicant and the  
919 owner of the real property upon which improvements are to be  
920 constructed copies of the general statement of an owner's rights  
921 and responsibilities under Florida's with a printed statement  
922 stating that the right, title, and interest of the person who  
923 has contracted for the improvement may be subject to attachment  
924 under the Construction Lien Law as described in s. 713.015 with  
925 the attached statutory forms. The issuing authority may make the  
926 general statement and forms available in printed form, on the  
927 Internet, or both. The Department of Business and Professional  
928 Regulation shall furnish, for distribution, the statement

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929 ~~described in this paragraph, and the statement must be a summary~~  
930 ~~of the Construction Lien Law and must include an explanation of~~  
931 ~~the provisions of the Construction Lien Law relating to the~~  
932 ~~recording, and the posting of copies, of notices of commencement~~  
933 ~~and a statement encouraging the owner to record a notice of~~  
934 ~~commencement and post a copy of the notice of commencement in~~  
935 ~~accordance with s. 713.13. The statement must also contain an~~  
936 ~~explanation of the owner's rights if a lienor fails to furnish~~  
937 ~~the owner with a notice as provided in s. 713.06(2) and an~~  
938 ~~explanation of the owner's rights as provided in s. 713.22. The~~  
939 ~~authority that issues the building permit must obtain from the~~  
940 ~~Department of Business and Professional Regulation the statement~~  
941 ~~required by this paragraph and must mail, deliver by electronic~~  
942 ~~mail or other electronic format or facsimile, or personally~~  
943 ~~deliver that statement to the owner or, in a case in which the~~  
944 ~~owner is required to personally appear to obtain the permit,~~  
945 ~~provide that statement to any owner making improvements to real~~  
946 ~~property consisting of a single or multiple family dwelling up~~  
947 ~~to and including four units. However, the failure by the~~  
948 ~~authorities to provide the summary does not subject the issuing~~  
949 ~~authority to liability.~~

950 ~~(c) In addition to providing the owner with the statement~~  
951 ~~as required by paragraph (b), inform each applicant who is not~~  
952 ~~the person whose right, title, and interest is subject to~~  
953 ~~attachment that, as a condition to the issuance of a building~~  
954 ~~permit, the applicant must promise in good faith that the~~  
955 ~~statement will be delivered to the person whose property is~~  
956 ~~subject to attachment.~~

957 ~~(d) Furnish to the applicant two or more copies of a form~~

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958 ~~of notice of commencement conforming with s. 713.13. If the~~  
959 ~~direct contract is greater than \$2,500, the applicant shall file~~  
960 ~~with the issuing authority prior to the first inspection either~~  
961 ~~a certified copy of the recorded notice of commencement or a~~  
962 ~~notarized statement that the notice of commencement has been~~  
963 ~~filed for recording, along with a copy thereof. In the absence~~  
964 ~~of the filing of a certified copy of the recorded notice of~~  
965 ~~commencement, the issuing authority or a private provider~~  
966 ~~performing inspection services may not perform or approve~~  
967 ~~subsequent inspections until the applicant files by mail,~~  
968 ~~facsimile, hand delivery, or any other means such certified copy~~  
969 ~~with the issuing authority. The certified copy of the notice of~~  
970 ~~commencement must contain the name and address of the owner, the~~  
971 ~~name and address of the contractor, and the location or address~~  
972 ~~of the property being improved. The issuing authority shall~~

973 (d) Verify that the name and address of the owner, the name  
974 of the contractor, and the location or address of the property  
975 being improved which is contained in the certified copy of the  
976 notice of commencement is consistent with the information in the  
977 building permit application.

978 (e) Provide the recording information from the official  
979 public records in which the notice of commencement and payment  
980 bond, if any, are recorded to any person upon request. The  
981 ~~issuing authority shall provide the recording information on the~~  
982 ~~certified copy of the recorded notice of commencement to any~~  
983 ~~person upon request. This subsection does not require the~~  
984 ~~recording of a notice of commencement prior to the issuance of a~~  
985 ~~building permit. If a local government requires a separate~~  
986 ~~permit or inspection for installation of temporary electrical~~

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987 ~~service or other temporary utility service, land clearing, or~~  
988 ~~other preliminary site work, such permits may be issued and such~~  
989 ~~inspections may be conducted without providing the issuing~~  
990 ~~authority with a certified copy of a recorded notice of~~  
991 ~~commencement or a notarized statement regarding a recorded~~  
992 ~~notice of commencement. This subsection does not apply to a~~  
993 ~~direct contract to repair or replace an existing heating or air-~~  
994 ~~conditioning system in an amount less than \$7,500.~~

995 (f) ~~(e)~~ Not require that a notice of commencement be  
996 recorded as a condition of the application for, or processing or  
997 issuance of, a building permit. ~~However, this paragraph does not~~  
998 ~~modify or waive the inspection requirements set forth in this~~  
999 ~~subsection.~~

1000 (2) An issuing authority under subsection (1) is not liable  
1001 in any civil action for the failure of the person whose property  
1002 is subject to attachment to receive or to be delivered the  
1003 general statement of an owner's rights and responsibilities  
1004 under Florida's a printed statement stating that the right,  
1005 title, and interest of the person who has contracted for the  
1006 improvement may be subject to attachment under the Construction  
1007 Lien Law as provided in s. 713.015.

1008 (3) An issuing authority under subsection (1) is not liable  
1009 in any civil action for the failure to verify that a certified  
1010 copy of the recorded notice of commencement has been filed in  
1011 accordance with this section.

1012 (4) The several boards of county commissioners, municipal  
1013 councils, or other similar bodies may by ordinance or resolution  
1014 establish reasonable fees for furnishing, upon request, copies  
1015 of the forms and the printed statement provided in paragraph

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1016 (1) (a) ~~paragraphs (1) (b) and (d)~~ in an amount not to exceed \$5  
1017 to be paid by the applicant for each permit in addition to all  
1018 other costs of the permit; ~~however, no forms or statement need~~  
1019 ~~be furnished, mailed, or otherwise provided to, nor may such~~  
1020 ~~additional fee be obtained from, applicants for permits in those~~  
1021 ~~cases in which the owner of a legal or equitable interest~~  
1022 ~~(including that of ownership of stock of a corporate landowner)~~  
1023 ~~of the real property to be improved is engaged in the business~~  
1024 ~~of construction of buildings for sale to others and intends to~~  
1025 ~~make the improvements authorized by the permit on the property~~  
1026 ~~and upon completion will offer the improved real property for~~  
1027 ~~sale.~~

1028 (5) In addition to any other information required by the  
1029 authority issuing the permit, each building permit application  
1030 must contain:

- 1031 (a) The name and address of the owner of the real property;  
1032 (b) The name and address of the contractor;  
1033 (c) A description sufficient to identify the real property  
1034 to be improved; and  
1035 (d) The number or identifying symbol assigned to the  
1036 building permit by the issuing authority, which number or symbol  
1037 must be affixed to the application by the issuing authority.

1038 (6) (a) In addition to any other information required by the  
1039 authority issuing the permit, the building permit application  
1040 must be in substantially the following form:

1041  
1042 Tax Folio No. \_\_\_\_\_

1043 BUILDING PERMIT APPLICATION  
1044

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1045 Owner's Name  
 1046 Owner's Address  
 1047 Fee Simple Titleholder's Name (If other than owner)  
 1048 Fee Simple Titleholder's Address (If other than owner)  
 1049 City  
 1050 State\_\_\_\_\_ Zip\_\_\_\_\_

1051 Contractor's Name  
 1052 Contractor's Address  
 1053 City  
 1054 State\_\_\_\_\_ Zip\_\_\_\_\_

1055 Job Name  
 1056 Job Address  
 1057 City\_\_\_\_\_ County\_\_\_\_\_

1058 Legal Description  
 1059 Bonding Company  
 1060 Bonding Company Address  
 1061 City\_\_\_\_\_ State\_\_\_\_\_

1062 Architect/Engineer's Name  
 1063 Architect/Engineer's Address  
 1064 Mortgage Lender's Name  
 1065 Mortgage Lender's Address  
 1066

1067 Application is hereby made to obtain a permit to do the  
 1068 work and installations as indicated. I certify that no work or  
 1069 installation has commenced prior to the issuance of a permit and  
 1070 that all work will be performed to meet the standards of all  
 1071 laws regulating construction in this jurisdiction. I understand  
 1072 that a separate permit must be secured for ELECTRICAL WORK,  
 1073 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,

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1074 TANKS, and AIR CONDITIONERS, etc.

1075

1076 OWNER'S AFFIDAVIT: I certify that all the foregoing  
1077 information is accurate and that all work will be done in  
1078 compliance with all applicable laws regulating construction and  
1079 zoning.

1080

1081 WARNING TO OWNER: IF YOU FAIL ~~YOUR FAILURE~~ TO RECORD A  
1082 NOTICE OF COMMENCEMENT, YOU MAY PAY ~~RESULT IN YOUR PAYING~~ TWICE  
1083 FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT, AND  
1084 THE CONTRACTOR'S PAYMENT BOND IF THE PROJECT IS BONDED, MUST BE  
1085 RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION.

1086

1087 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER  
1088 OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE  
1089 OF COMMENCEMENT.

1090

1091 (Signature of Owner or Agent)

1092

1093 (including contractor)

1094 STATE OF FLORIDA

1095 COUNTY OF \_\_\_\_\_

1096

1097 Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_  
1098 day of \_\_\_\_\_, (year), by (name of person making statement).

1099

1100 (Signature of Notary Public - State of Florida)

1101 (Print, Type, or Stamp Commissioned Name of Notary Public)

1102

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1103 Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

1104  
1105 Type of Identification Produced \_\_\_\_\_

1106 (Signature of Contractor)

1107  
1108 STATE OF FLORIDA

1109 COUNTY OF \_\_\_\_\_

1110  
1111 Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_  
1112 day of \_\_\_\_\_, (year), by (name of person making statement).

1113 (Signature of Notary Public - State of Florida)

1114 (Print, Type, or Stamp Commissioned Name of Notary Public)

1115  
1116 Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

1117  
1118 Type of Identification Produced \_\_\_\_\_

1119  
1120 (Certificate of Competency Holder)

1121  
1122 Contractor's State Certification or Registration No. \_\_\_\_\_

1123  
1124 Contractor's Certificate of Competency No. \_\_\_\_\_

1125  
1126 APPLICATION APPROVED BY

1127 \_\_\_\_\_ Permit Officer

1128 (b) Consistent with the requirements of paragraph (a), an  
1129 authority responsible for issuing building permits under this  
1130 section may accept a building permit application in an  
1131 electronic format, as prescribed by the authority. Building

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1132 permit applications submitted to the authority electronically  
1133 must contain the following additional statement in lieu of the  
1134 requirement in paragraph (a) that a signed, sworn, and notarized  
1135 signature of the owner or agent and the contractor be part of  
1136 the owner's affidavit:  
1137

1138 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of  
1139 perjury, I declare that all the information contained in this  
1140 building permit application is true and correct.

1141 (c) An authority responsible for issuing building permit  
1142 applications which accepts building permit applications in an  
1143 electronic format shall provide public Internet access to the  
1144 electronic building permit applications in a searchable format.

1145 (7) This section applies to every municipality and county  
1146 in the state which now has or hereafter may have a system of  
1147 issuing building permits for the construction of improvements or  
1148 for the alteration or repair of improvements on or to real  
1149 property located within the geographic limits of the issuing  
1150 authority.

1151 Section 11. Section 713.137, Florida Statutes, is created  
1152 to read:

1153 713.137 Prerequisites to inspection of improvements;  
1154 exceptions.-

1155 (1) The authority issuing a building permit or a private  
1156 provider providing inspection services may not inspect the real  
1157 property being improved unless:

1158 (a) The following documents have been filed with the  
1159 issuing authority:

1160 1.a. A certified copy of the recorded notice of

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1161 commencement; or

1162 b. A notarized statement that the notice of commencement  
1163 has been filed for recording, along with a copy of the notice.

1164 2.a. A copy of the contractor's recorded payment bond; or

1165 b. A notarized statement of the contractor or owner stating  
1166 that a payment bond was not required.

1167 3. A signed copy of the general statement of owner's rights  
1168 and responsibilities under Florida's Construction Lien Law, if  
1169 required by s. 713.015.

1170 (b) The information in the notice of commencement filed  
1171 with the issuing authority is consistent with the building  
1172 permit application, complete, and legible.

1173 (2) This section does not apply to inspections of the  
1174 following improvements:

1175 (a) The installation of temporary electrical service or  
1176 other temporary utility service, land clearing, or other  
1177 preliminary site work.

1178 (b) Improvements pursuant to a direct contract in an amount  
1179 of \$5,000 or less.

1180 (c) The repair or replacement of a heating or air-  
1181 conditioning system pursuant to a direct contract in an amount  
1182 of \$7,500 or less.

1183 (d) The installation of a solar hot water system pursuant  
1184 to a direct contract of \$7,500 or less.

1185 Section 12. Section 713.16, Florida Statutes, is amended to  
1186 read:

1187 713.16 Demand for copy of contract and statements of  
1188 account; form.

1189 (1) A copy of the contract of a lienor or owner and a

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1190 statement of the amount due or to become due if fixed or  
1191 ascertainable thereon must be furnished by any party thereto,  
1192 upon written demand of an owner or a lienor contracting with or  
1193 employed by the other party to such contract. If the owner or  
1194 lienor refuses or neglects to furnish such copy of the contract  
1195 or such statement, or willfully and falsely states the amount  
1196 due or to become due if fixed or ascertainable under such  
1197 contract, any person who suffers any detriment thereby has a  
1198 cause of action against the person refusing or neglecting to  
1199 furnish the same or willfully and falsely stating the amount due  
1200 or to become due for his or her damages sustained thereby. The  
1201 information contained in such copy or statement furnished  
1202 pursuant to such written demand is binding upon the owner or  
1203 lienor furnishing it unless actual notice of any modification is  
1204 given to the person demanding the copy or statement before such  
1205 person acts in good faith in reliance on it. The person  
1206 demanding such documents must pay for the reproduction thereof;  
1207 and, if such person fails or refuses to do so, he or she is  
1208 entitled only to inspect such documents at reasonable times and  
1209 places.

1210 (2) The owner may serve in writing a demand of any lienor  
1211 for a written statement under oath of his or her account showing  
1212 the nature of the labor or services performed and to be  
1213 performed, if any, the materials furnished, the materials to be  
1214 furnished, if known, the amount paid on account to date, the  
1215 amount due, and the amount to become due, if known, as of the  
1216 date of the statement by the lienor. Any such demand to a lienor  
1217 must be served on the lienor at the address and to the attention  
1218 of any person who is designated to receive the demand in the

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1219 notice to owner served by such lienor and must include a  
1220 description of the project, including the names of the owner,  
1221 the contractor, and the lienor's customer, sufficient for the  
1222 lienor to properly identify the account in question. The failure  
1223 or refusal to furnish the statement does not deprive the lienor  
1224 of his or her lien if the demand is not served at the address of  
1225 the lienor or directed to the attention of the person designated  
1226 to receive the demand in the notice to owner. The failure or  
1227 refusal to furnish the statement under oath within 30 days after  
1228 the demand, or the furnishing of a false or fraudulent  
1229 statement, deprives the person so failing or refusing to furnish  
1230 such statement of his or her lien. If the owner serves more than  
1231 one demand for statement of account on a lienor and none of the  
1232 information regarding the account has changed since the lienor's  
1233 last response to a demand, the failure or refusal to furnish  
1234 such statement does not deprive the lienor of his or her lien.  
1235 The negligent inclusion or omission of any information deprives  
1236 the person of his or her lien to the extent the owner can  
1237 demonstrate prejudice from such act or omission by the lienor.  
1238 The failure to furnish a response to a demand for statement of  
1239 account does not affect the validity of any claim of lien being  
1240 enforced through a foreclosure case filed prior to the date the  
1241 demand for statement is received by the lienor.

1242 (3) A request for sworn statement of account must be in  
1243 substantially the following form:

1244

1245 REQUEST FOR SWORN STATEMENT OF ACCOUNT

1246

1247 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT,

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1248 SIGNED UNDER OATH, WITHIN 30 DAYS OR THE FURNISHING OF A FALSE  
 1249 STATEMENT WILL RESULT IN THE LOSS OF YOUR LIEN.

1250

1251 To: (Lienor's name and address)

1252

1253 The undersigned hereby demands a written statement under  
 1254 oath of his or her account showing the nature of the labor or  
 1255 services performed and to be performed, if any, the materials  
 1256 furnished, the materials to be furnished, if known, the amount  
 1257 paid on account to date, the amount due, and the amount to  
 1258 become due, if known, as of the date of the statement for the  
 1259 improvement of real property identified as (property  
 1260 description).

1261 Name of contractor:

1262 Name of the lienor's customer (as specified in the lienor's  
 1263 Notice to Owner, if such notice has been served):

1264 (signature and address of owner)

1265 (date of request for sworn statement of account)

1266 (4) When a contractor has furnished a payment bond pursuant  
 1267 to s. 713.23, he or she may, when an owner makes any payment to  
 1268 the contractor or directly to a lienor, serve a written demand  
 1269 on any other lienor for a written statement under oath of his or  
 1270 her account showing the nature of the labor or services  
 1271 performed and to be performed, if any, the materials furnished,  
 1272 the materials to be furnished, if known, the amount paid on  
 1273 account to date, the amount due, and the amount to become due,  
 1274 if known, as of the date of the statement by the lienor. Any  
 1275 such demand to a lienor must be served on the lienor at the  
 1276 address and to the attention of any person who is designated to

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1277 receive the demand in the notice to contractor served by such  
1278 lienor. The failure or refusal to furnish the statement does not  
1279 deprive the lienor of his or her rights under the bond if the  
1280 demand is not served at the address of the lienor or directed to  
1281 the attention of the person designated to receive the demand in  
1282 the notice to contractor and does not include a description of  
1283 the project, including the names of the owner, the contractor,  
1284 and the lienor's customer as set forth in the lienor's notice to  
1285 contractor, sufficient for the lienor to properly identify the  
1286 account in question. The failure to furnish the statement within  
1287 30 days after the demand, or the furnishing of a false or  
1288 fraudulent statement, deprives the person who fails to furnish  
1289 the statement, or who furnishes the false or fraudulent  
1290 statement, of his or her rights under the bond. If the  
1291 contractor serves more than one demand for statement of account  
1292 on a lienor and none of the information regarding the account  
1293 has changed since the lienor's last response to a demand, the  
1294 failure or refusal to furnish such statement does not deprive  
1295 the lienor of his or her rights under the bond. The negligent  
1296 inclusion or omission of any information deprives the person of  
1297 his or her rights under the bond to the extent the contractor  
1298 can demonstrate prejudice from such act or omission by the  
1299 lienor. The failure to furnish a response to a demand for  
1300 statement of account does not affect the validity of any claim  
1301 on the bond being enforced in a lawsuit filed prior to the date  
1302 the demand for statement of account is received by the lienor.

1303 (5) (a) Any lienor who submits or mails ~~has recorded~~ a claim  
1304 of lien to the clerk for recording may make written demand on  
1305 the owner for a written statement under oath showing:

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1306 1. The amount of the direct contract under which the lien  
1307 was recorded;

1308 2. The dates and amounts paid or to be paid by or on behalf  
1309 of the owner for all improvements described in the direct  
1310 contract;

1311 3. The reasonable estimated costs of completing the direct  
1312 contract under which the lien was claimed pursuant to the scope  
1313 of the direct contract; and

1314 4. If known, the actual cost of completion.

1315 (b) Any owner who does not provide the statement within 30  
1316 days after demand, or who provides a false or fraudulent  
1317 statement, is not a prevailing party for purposes of an award of  
1318 attorney's fees under s. 713.29. The written demand must include  
1319 the following warning in conspicuous type in substantially the  
1320 following form:

1321 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT  
1322 WITHIN 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL  
1323 RESULT IN THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY  
1324 ACTION TO ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING  
1325 THIS STATEMENT.

1326 (6) Any written demand served on the owner shall include a  
1327 description of the project, including the names of the  
1328 contractor and the lienor's customer as set forth in the  
1329 lienor's notice to owner, sufficient for the owner to properly  
1330 identify the project in question.

1331 (7)~~(6)~~ For purposes of this section, the term "information"  
1332 means the nature and quantity of the labor, services, and  
1333 materials furnished or to be furnished by a lienor and the  
1334 amount paid, the amount due, and the amount to become due on the

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1335 lienor's account.

1336 Section 13. Section 713.18, Florida Statutes, is amended to  
1337 read:

1338 713.18 Manner of serving notices and other instruments.—

1339 (1) Service of notices, claims of lien, affidavits,  
1340 assignments, and other instruments permitted or required under  
1341 this part, or copies thereof when so permitted or required,  
1342 unless otherwise specifically provided in this part, must be  
1343 made by one of the following methods:

1344 (a) By actual delivery to the person to be served; if a  
1345 partnership, to one of the partners; if a corporation, to an  
1346 officer, director, managing agent, or business agent; or, if a  
1347 limited liability company, to a member or manager.

1348 (b) By sending the same by common carrier delivery service  
1349 or registered, global express guaranteed, or certified mail,  
1350 with postage prepaid, and ~~or by overnight or second-day delivery~~  
1351 with evidence of delivery, which may be in an electronic format.

1352 (c) ~~If the method specified in paragraph (a) or paragraph~~  
1353 ~~(b) cannot be accomplished,~~ By posting on the site of the  
1354 improvement if service as provided by paragraph (a) or paragraph  
1355 (b) cannot be accomplished ~~premises.~~

1356 (2) Notwithstanding subsection (1), service of ~~if~~ a notice  
1357 to owner, a notice to contractor under s. 713.23, or a  
1358 preliminary notice under s. 255.05 is ~~mailed by registered or~~  
1359 ~~certified mail with postage prepaid to the person to be served~~  
1360 ~~at any of the addresses set forth in subsection (3) within 40~~  
1361 ~~days after the date the lienor first furnishes labor, services,~~  
1362 ~~or materials, service of that notice is~~ effective as of the date  
1363 of mailing if:

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1364       (a) The notice is mailed by registered, global express  
1365 guaranteed, or certified mail, with postage prepaid, to the  
1366 person to be served at any of the addresses set forth in  
1367 subsection (3);

1368       (b) The notice is mailed within 40 days after the date the  
1369 lienor first furnishes labor, services, or materials; and

1370       (c)1. The person who served the notice maintains a  
1371 registered or certified mail log that shows the registered or  
1372 certified mail number issued by the United States Postal  
1373 Service, the name and address of the person served, and the date  
1374 stamp of the United States Postal Service confirming the date of  
1375 mailing; or ~~if~~

1376       2. The person who served the notice maintains electronic  
1377 tracking records generated through use of the United States  
1378 Postal Service Confirm service or a similar service containing  
1379 the postal tracking number, the name and address of the person  
1380 served, and verification of the date of receipt by the United  
1381 States Postal Service.

1382       (3)(a) Service of ~~If~~ an instrument served pursuant to this  
1383 section is effective on the date of mailing if the instrument:

1384       1. Was sent to the last address shown in the notice of  
1385 commencement or any amendment thereto or, in the absence of a  
1386 notice of commencement, to the last address shown in the  
1387 building permit application, or to the last known address of the  
1388 person to be served; and, ~~is not received, but~~

1389       2. Is returned as being "refused," "moved, not  
1390 forwardable," or "unclaimed," or is otherwise not delivered or  
1391 deliverable through no fault of the person serving the item, ~~then service is effective on the date the instrument was sent.~~

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1393        (b) If the address information shown in the notice of  
1394 commencement or any amendment to the notice, or in the absence  
1395 of a notice of commencement, in the building permit application,  
1396 is incomplete for purposes of mailing or delivery, the person  
1397 -serving the item may complete the address and properly format it  
1398 according to United States Postal Service addressing standards  
1399 using information obtained from the property appraiser or  
1400 another public record or directory without affecting the  
1401 validity of service under this section.

1402        (4) A notice served by a lienor on one owner or one partner  
1403 of a partnership owning the real property ~~If the real property~~  
1404 ~~is owned by more than one person or a partnership, a lienor may~~  
1405 ~~serve any notices or other papers under this part on any one of~~  
1406 ~~such owners or partners, and such notice is deemed notice to all~~  
1407 owners and partners.

1408        Section 14. Section 713.22, Florida Statutes, is amended to  
1409 read:

1410        713.22 Duration of lien.—

1411        (1) A ~~No~~ lien provided by this part may not ~~shall~~ continue  
1412 for a longer period than 1 year after the claim of lien has been  
1413 recorded or 1 year after the recording of an amended claim of  
1414 lien that shows a later date of final furnishing of labor,  
1415 services, or materials, unless within that time an action to  
1416 enforce the lien is commenced in a court of competent  
1417 jurisdiction. A lien that has been continued beyond the 1-year  
1418 period ~~The continuation of the lien effected by the commencement~~  
1419 ~~of an~~ the ~~action is~~ shall not enforceable ~~be good~~ against  
1420 creditors or subsequent purchasers for a valuable consideration  
1421 and without notice, unless a notice of lis pendens is recorded.

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1422 (2) An owner or the owner's agent or attorney may elect to  
 1423 shorten the time prescribed in subsection (1) within which to  
 1424 commence an action to enforce any claim of lien or claim against  
 1425 a bond or other security under s. 713.23 or s. 713.24 by  
 1426 recording in the clerk's office a notice in substantially the  
 1427 following form:

1428  
 1429 NOTICE OF CONTEST OF LIEN  
 1430

1431 To: (Name and address of lienor)

1432 You are notified that the undersigned contests the claim of  
 1433 lien filed by you on \_\_\_\_\_, (year), and recorded in \_\_\_\_\_ Book  
 1434 \_\_\_\_\_, Page \_\_\_\_\_, of the public records of \_\_\_\_\_ County,  
 1435 Florida, and that the time within which you may file suit to  
 1436 enforce your lien is limited to 60 days from the date of service  
 1437 of this notice. This \_\_\_\_\_ day of \_\_\_\_\_, (year).

1438  
 1439 Signed: (Owner or Attorney)  
 1440

1441 The lien of any lienor upon whom such notice is served and  
 1442 who fails to institute a suit to enforce his or her lien within  
 1443 60 days after service of such notice shall be extinguished  
 1444 automatically. The clerk shall serve ~~mail~~ a copy of the notice  
 1445 of contest to the lien claimant at the address shown in the  
 1446 claim of lien or most recent amendment thereto and shall certify  
 1447 to such service on the face of such notice and record the  
 1448 notice. ~~Service shall be deemed complete upon mailing.~~

1449 Section 15. Paragraph (e) of subsection (1) and subsections  
 1450 (2) and (4) of section 713.23, Florida Statutes, are amended to

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1451 read:

1452 713.23 Payment bond.—

1453 (1)

1454 (e) An ~~Ne~~ action for the labor or materials or supplies may  
 1455 not be instituted or prosecuted against the contractor or surety  
 1456 unless both notices have been given. An ~~Ne~~ action may not ~~shall~~  
 1457 be instituted or prosecuted against the contractor or against  
 1458 the surety on the bond under this section after 1 year from the  
 1459 performance of the labor or completion of delivery of the  
 1460 materials and supplies. The time period for bringing an action  
 1461 against the contractor or surety on the bond shall be measured  
 1462 from the last day of furnishing labor, services, or materials by  
 1463 the lienor. The time period may ~~and shall~~ not be measured by  
 1464 other standards, such as the issuance of a certificate of  
 1465 occupancy or the issuance of a certificate of substantial  
 1466 completion. A contractor or the contractor's agent or attorney  
 1467 may elect to shorten the ~~prescribed~~ time within which an action  
 1468 to enforce any claim against a payment bond ~~provided~~ under this  
 1469 section or s. 713.245 must ~~may~~ be commenced at any time after a  
 1470 notice of nonpayment, if required, has been served for the claim  
 1471 by recording in the clerk's office a notice in substantially the  
 1472 following form:

1473

1474 NOTICE OF CONTEST OF CLAIM

1475 AGAINST PAYMENT BOND

1476

1477 To: (Name and address of lienor)

1478 You are notified that the undersigned contests your notice  
 1479 of nonpayment, dated \_\_\_\_\_, \_\_\_\_\_, and served on the undersigned

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1480 on \_\_\_\_\_, \_\_\_\_\_, and that the time within which you may file  
1481 suit to enforce your claim is limited to 60 days from the date  
1482 of service of this notice.

1483  
1484 DATED on \_\_\_\_\_, \_\_\_\_\_.

1485  
1486 Signed: (Contractor or Attorney)

1487  
1488 The claim of any lienor upon whom the notice is served and  
1489 who fails to institute a suit to enforce his or her claim  
1490 against the payment bond within 60 days after service of the  
1491 notice shall be extinguished automatically. The clerk shall  
1492 serve mail a copy of the notice of contest to the lienor at the  
1493 address shown in the notice of nonpayment or most recent  
1494 amendment thereto and shall certify to such service on the face  
1495 of the notice and record the notice. ~~Service is complete upon~~  
1496 ~~mailing.~~

1497 (2) The bond shall secure every lien under the direct  
1498 contract accruing subsequent to its execution and delivery,  
1499 except that of the contractor. Every claim of lien, except that  
1500 of the contractor, filed subsequent to execution and delivery of  
1501 the bond shall be transferred to it with the same effect as  
1502 liens transferred under s. 713.24. Record notice of the transfer  
1503 shall be effected by the contractor, or any person having an  
1504 interest in the property against which the claim of lien has  
1505 been asserted, by recording in the clerk's office a notice in  
1506 substantially the following form:

1507  
1508 NOTICE OF BOND

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1509  
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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; or
- (b) Filing in the clerk's office a bond executed as surety by a surety insurer licensed to do business in this state. or

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

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- 1538        (a) The amount demanded in ~~the~~ such claim of lien; ~~r~~, plus  
1539        (b) Interest on the claim ~~thereon~~ at the legal rate for 3  
1540 years, plus \$1,000 or 25 percent of the amount demanded in the  
1541 claim of lien, whichever is greater, to apply on any attorney's  
1542 fees and court costs that may be taxed in any proceeding to  
1543 enforce the ~~said~~ lien.
- 1544        (3) The security ~~Such deposit or bond~~ shall be conditioned  
1545 to pay any judgment or decree that ~~which~~ may be rendered for the  
1546 satisfaction of the lien ~~for which such claim of lien was~~  
1547 ~~recorded~~.
- 1548        (4) ~~A~~ Upon making such deposit or filing such bond, the  
1549 clerk who receives other security for a lien:
- 1550        (a) Shall make and record a certificate showing the  
1551 transfer of the lien from the real property to the security. The  
1552 clerk ~~and~~ shall serve mail a copy of the certificate and a copy  
1553 of the bond, if the lien was transferred to a bond, on thereof  
1554 ~~by registered or certified mail to~~ the lienor named in the claim  
1555 of lien ~~so transferred,~~ at the address stated in the claim  
1556 ~~therein.~~ When ~~Upon filing~~ the certificate of transfer is  
1557 recorded, the real property is ~~shall thereupon be~~ released from  
1558 the lien claimed, and the ~~such~~ lien is ~~shall be~~ transferred to  
1559 the other ~~said~~ security.
- 1560        (b) May collect a service charge of no more than \$20 for  
1561 making and serving the certificate. The clerk may collect an  
1562 additional charge of no more than \$10 for each additional lien  
1563 transferred to the security. The clerk shall receive the  
1564 statutory service charges as prescribed in s. 28.24 for  
1565 recording the certificate and approving the bond.
- 1566        (5) In the absence of allegations of privity between the

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1567 lienor and the owner, and subject to any order of the court  
1568 increasing the amount required for the lien transfer deposit or  
1569 bond, no other judgment or decree to pay money may be entered by  
1570 the court against the owner. ~~The clerk shall be entitled to a~~  
1571 ~~service charge for making and serving the certificate, in the~~  
1572 ~~amount of up to \$20. If the transaction involves the transfer of~~  
1573 ~~multiple liens, an additional charge of up to \$10 for each~~  
1574 ~~additional lien shall be charged. For recording the certificate~~  
1575 ~~and approving the bond, the clerk shall receive her or his usual~~  
1576 ~~statutory service charges as prescribed in s. 28.24. Any number~~  
1577 ~~of liens may be transferred to one such security.~~

1578 (6)~~(2)~~ Any excess of the security over the aggregate amount  
1579 of any judgments or decrees rendered plus costs actually taxed  
1580 shall be repaid to the party filing the same or her or his  
1581 successor in interest. Any deposit of money shall be considered  
1582 as paid into court and is ~~shall be~~ subject to the provisions of  
1583 law relative to payments of money into court and the disposition  
1584 of same.

1585 (7)~~(3)~~ Any party having an interest in such security or the  
1586 property from which the lien was transferred may at any time,  
1587 and any number of times, file a complaint in chancery in the  
1588 circuit court of the county where such security is deposited, or  
1589 file a motion in a pending action to enforce a lien, for an  
1590 order to require additional security, reduction of security,  
1591 change or substitution of sureties, payment of discharge  
1592 thereof, or any other matter affecting the ~~said~~ security. If the  
1593 court finds that the amount of the deposit or bond in excess of  
1594 the amount claimed in the claim of lien is insufficient to pay  
1595 the lienor's attorney's fees and court costs incurred in the

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1596 action to enforce the lien, the court must increase the amount  
1597 of the cash deposit or lien transfer bond. ~~Nothing in~~ This  
1598 section does not ~~shall be construed to~~ vest exclusive  
1599 jurisdiction in the circuit courts over transfer bond claims for  
1600 nonpayment of an amount within the monetary jurisdiction of the  
1601 county courts.

1602 (8)~~(4)~~ If a proceeding to enforce a transferred lien is not  
1603 commenced within the time specified in s. 713.22 or if it  
1604 appears that the transferred lien has been satisfied of record,  
1605 the clerk shall return the ~~said~~ security upon request of the  
1606 person depositing or filing the same, or the insurer. If a  
1607 proceeding to enforce a lien is commenced in a court of  
1608 competent jurisdiction within the time specified in s. 713.22  
1609 and, during such proceeding, the lien is transferred pursuant to  
1610 this section or s. 713.13(1)(e), an action commenced within 1  
1611 year after the transfer, unless otherwise shortened by operation  
1612 of law, in the same county or circuit court to recover against  
1613 the security shall be deemed to have been brought as of the date  
1614 of filing the action to enforce the lien, and the court has  
1615 ~~shall have~~ jurisdiction over the action.

1616 Section 17. Effective upon this act becoming a law, section  
1617 713.29, Florida Statutes, is amended to read:

1618 713.29 Attorney's fees.—In any action brought to enforce a  
1619 lien or to enforce a claim against a bond under this part, the  
1620 prevailing party is entitled to recover a reasonable fee for the  
1621 services of her or his attorney for trial and appeal or for  
1622 arbitration, in an amount to be determined by the court, which  
1623 fee must be taxed as part of the prevailing party's costs, ~~as~~  
1624 ~~allowed in equitable actions.~~ A lienor is the prevailing party

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1625 if the lienor obtains a net judgment in any action brought to  
1626 enforce a lien or to enforce a claim against a bond after the  
1627 deduction of any setoffs. A defendant is the prevailing party if  
1628 the lienor does not obtain a net judgment after the deduction of  
1629 any setoffs.

1630       Section 18. Except as otherwise expressly provided in this  
1631 act and except for this section, which shall take effect upon  
1632 this act becoming a law, this act shall take effect July 1,  
1633 2009.