

By the Committees on General Government Appropriations;  
Judiciary; and Regulated Industries; and Senator Baker

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1                                   A bill to be entitled  
2           An act relating to construction bonds; amending s.  
3           255.05, F.S.; requiring that a contractor record in  
4           the official records a payment bond for a public works  
5           construction project; requiring that the bond number  
6           be stated on the first page of the bond; prohibiting  
7           the issuing authority for a building permit or a  
8           private provider performing inspection services from  
9           inspecting the property being improved until certain  
10          documents are filed; providing that a payment and  
11          performance bond is not required for certain  
12          contracts; authorizing certain entities to exempt  
13          certain contracts from the requirement for a payment  
14          and performance bond; requiring the clerk of court to  
15          mail a notice of contest of lien by certified or  
16          registered mail; amending s. 713.015, F.S.; requiring  
17          that a contractor provide an owner with a general  
18          statement of an owner's rights and responsibilities  
19          under Florida's Construction Lien Law; requiring that  
20          a signed copy of the statement be filed with the  
21          building permit application; specifying the form and  
22          content of the statement; deleting the requirement  
23          that notice be included in the direct contract between  
24          the contractor and the owner; amending s. 713.06,  
25          F.S.; revising the form of a notice for liens of  
26          persons not in privity with the owner; amending s.  
27          713.13, F.S.; revising the form of the notice of  
28          commencement; requiring the posting of a payment bond  
29          on a job site; amending s. 713.135, F.S.; revising the

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30 warning to the owner printed on certain permit cards;  
31 deleting a requirement relating to filing a notice of  
32 commencement before certain inspections; revising the  
33 warning to the owner provided on a building permit  
34 form; creating s. 713.137, F.S.; prohibiting the  
35 authority issuing a building permit or a private  
36 provider performing inspection services from  
37 inspecting an improvement until certain documents have  
38 been filed and the information in the notice of  
39 commencement meets certain standards; providing  
40 exceptions; amending s. 713.16, F.S.; revising  
41 requirements for demands for a copy of a construction  
42 contract and a statement of account; authorizing a  
43 lienor who submits or mails a claim of lien to the  
44 clerk for recording to make certain demands to an  
45 owner for certain written statements; providing  
46 requirements for such written demands; amending s.  
47 713.18, F.S.; providing additional methods by which  
48 certain items may be served by mail; specifying the  
49 information required on certain written instruments  
50 under certain circumstances; amending s. 713.22, F.S.;  
51 requiring that the clerk of court serve a notice of  
52 contest of lien; amending s. 713.23, F.S.; requiring  
53 that the clerk of court mail a notice of contest of  
54 nonpayment by certified or registered mail; conforming  
55 cross-references; amending s. 713.24, F.S.; requiring  
56 that the clerk of court mail, by certified or  
57 registered mail, a copy of the certificate showing the  
58 transfer of a lien and a copy of the security if the

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59       lien is transferred to a security; authorizing a clerk  
60       to collect certain service charges under certain  
61       circumstances; providing an effective date.

62  
63 Be It Enacted by the Legislature of the State of Florida:

64  
65       Section 1. Subsection (1) and paragraph (a) of subsection  
66       (2) of section 255.05, Florida Statutes, are amended to read:  
67       255.05 Bond of contractor constructing public buildings;  
68       form; action by materialmen.—

69       (1) ~~(a)~~ Any person entering into a formal contract with the  
70       state or any county, municipality ~~city~~, or political subdivision  
71       thereof, or other public authority or private entity, for the  
72       construction of a public building, for the prosecution and  
73       completion of a public work, or for repairs upon a public  
74       building or public work shall ~~be required~~, before commencing the  
75       work or before recommencing the work after a default or  
76       abandonment, ~~to execute~~ and, deliver to the public owner, ~~and~~  
77       ~~record in the public records of the county where the improvement~~  
78       ~~is located~~, a payment and performance bond with a surety insurer  
79       authorized to do business in this state as surety.

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

83       (b) The bond must state on its front page: the name,  
84       principal business address, and phone number of the contractor,  
85       the surety, the owner of the property being improved, and, if  
86       different from the owner, the contracting public entity; the  
87       contract number assigned by the contracting public entity; the

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88 bond number assigned by the surety; and a description of the  
89 project sufficient to identify it, such as a legal description  
90 or the street address of the property being improved, and a  
91 general description of the improvement.

92 (c) Such bond shall be conditioned upon the contractor's  
93 performance of the construction work in the time and manner  
94 prescribed in the contract and promptly making payments to all  
95 persons defined in s. 713.01 who furnish labor, services, or  
96 materials for the prosecution of the work provided for in the  
97 contract.

98 (d) The contractor shall record the payment bond upon  
99 issuance in the official records of the county in which the  
100 improvement will be located.

101 (e)1. The issuing authority for the building permit, or a  
102 private provider performing inspection services, may not inspect  
103 the property being improved until:

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

106 b. The contracting public entity has filed with the issuing  
107 authority a notarized statement stating that the contract is  
108 exempt from the requirement for a payment bond as provided in  
109 this section.

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

113 (f) Any claimant may apply to the governmental entity  
114 having charge of the work for copies of the contract and bond  
115 and shall thereupon be furnished with a certified copy of the  
116 contract and bond. The claimant ~~has~~ shall have a right of action

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117 against the contractor and surety for the amount due him or her,  
118 including unpaid finance charges due under the claimant's  
119 contract. Such action shall not involve the public authority in  
120 any expense.

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

125 2. ~~At the discretion of~~ The official or board awarding a  
126 such contract ~~when such work is done for a~~ any county,  
127 municipality ~~city,~~ political subdivision, or public authority  
128 may exempt a contract, ~~any person entering into such a contract~~  
129 ~~which is for \$200,000 or less~~ from the requirement for a ~~may be~~  
130 ~~exempted from executing the~~ payment and performance bond.

131 3. ~~When such work is done for the state,~~ The Secretary of  
132 Management Services may delegate to a state agency ~~agencies~~ the  
133 authority to exempt any person entering into such a contract for  
134 ~~amounting to~~ more than \$100,000 but less than \$200,000 from the  
135 requirement for a ~~executing the~~ payment and performance bond. If  
136 ~~In the event~~ such exemption is granted, the officer or officials  
137 are ~~shall~~ not be personally liable to persons suffering loss  
138 because of granting such exemption. The Department of Management  
139 Services shall maintain information on the number of requests by  
140 state agencies for delegation of authority to waive the bond  
141 requirements by agency and project number and whether any  
142 request for delegation was denied and the justification for the  
143 denial.

144 (h) Any provision in a payment bond furnished for public  
145 work contracts as provided by this subsection which restricts

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146 the classes of persons as defined in s. 713.01 protected by the  
147 bond or the venue of any proceeding relating to such bond is  
148 unenforceable.

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

152 1. Procedures for retaining up to 10 percent of each  
153 request for payment submitted by a contractor and procedures for  
154 determining disbursements from the amount retained on a pro rata  
155 basis to laborers, materialmen, and subcontractors, as defined  
156 in s. 713.01.

157 2. Procedures for requiring certification from laborers,  
158 materialmen, and subcontractors, as defined in s. 713.01, prior  
159 to final payment to the contractor, that such laborers,  
160 materialmen, and subcontractors have no claims against the  
161 contractor resulting from the completion of the work provided  
162 for in the contract.

163  
164 The state is ~~shall~~ not ~~be held~~ liable to any laborer,  
165 materialman, or subcontractor for any amounts greater than the  
166 pro rata share as determined under this section.

167 (j)~~(e)~~ 1. The amount of the bond shall equal the contract  
168 price, except that for a contract in excess of \$250 million, if  
169 the state, county, municipality, political subdivision, or other  
170 public entity finds that a bond in the amount of the contract  
171 price is not reasonably available, the public owner shall set  
172 the amount of the bond at the largest amount reasonably  
173 available, but not less than \$250 million.

174 2. For construction-management or design-build contracts,

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175 if the public owner does not include in the bond amount the cost  
 176 of design or other nonconstruction services, the bond may not be  
 177 conditioned on performance of such services or payment to  
 178 persons furnishing such services. Notwithstanding paragraph (h)  
 179 ~~(a)~~, such a bond may exclude persons furnishing such services  
 180 from the classes of persons protected by the bond.

181 (2) (a)1. If a claimant is no longer furnishing labor,  
 182 services, or materials on a project, a contractor or the  
 183 contractor's agent or attorney may elect to shorten the  
 184 ~~prescribed time in this paragraph~~ within which an action to  
 185 enforce any claim against a payment bond must ~~provided pursuant~~  
 186 ~~to this section may~~ be commenced by recording in the clerk's  
 187 office a notice in substantially the following form:

188 NOTICE OF CONTEST OF CLAIM  
 189 AGAINST PAYMENT BOND

190  
 191 To: ... (Name and address of claimant) ...  
 192

193 You are notified that the undersigned contests your notice  
 194 of nonpayment, dated ....., ....., and served on the  
 195 undersigned on ....., ....., and that the time within  
 196 which you may file suit to enforce your claim is limited to 60  
 197 days after the date of service of this notice.  
 198

199 DATED on ....., .....

200  
 201 Signed: ... (Contractor or Attorney) ...  
 202

203 The claim of any claimant upon whom such notice is served and

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204 who fails to institute a suit to enforce his or her claim  
205 against the payment bond within 60 days after service of such  
206 notice shall be extinguished automatically. The clerk shall mail  
207 a copy of the notice of contest to the claimant at the address  
208 shown in the notice of nonpayment or most recent amendment  
209 thereto by certified or registered mail, return receipt  
210 requested, and shall certify to such service on the face of such  
211 notice and record the notice. ~~Service is complete upon mailing.~~

212 2. A claimant, except a laborer, who is not in privity with  
213 the contractor shall, before commencing or not later than 45  
214 days after commencing to furnish labor, services, or materials  
215 for the prosecution of the work, furnish the contractor with a  
216 written notice that he or she intends to look to the bond for  
217 protection. A claimant who is not in privity with the contractor  
218 and who has not received payment for his or her labor, services,  
219 or materials shall deliver to the contractor and to the surety  
220 written notice of the performance of the labor or delivery of  
221 the materials or supplies and of the nonpayment. The notice of  
222 nonpayment may be served at any time during the progress of the  
223 work or thereafter but not before 45 days after the first  
224 furnishing of labor, services, or materials, and not later than  
225 90 days after the final furnishing of the labor, services, or  
226 materials by the claimant or, with respect to rental equipment,  
227 not later than 90 days after the date that the rental equipment  
228 was last on the job site available for use. Any notice of  
229 nonpayment served by a claimant who is not in privity with the  
230 contractor which includes sums for retainage must specify the  
231 portion of the amount claimed for retainage. An ~~Ne~~ action for  
232 ~~the~~ labor, materials, or supplies may not be instituted against



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233 the contractor or the surety unless both notices have been  
234 given. Notices required or permitted under this section may be  
235 served in accordance with s. 713.18. A claimant may not waive in  
236 advance his or her right to bring an action under the bond  
237 against the surety. In any action brought to enforce a claim  
238 against a payment bond under this section, the prevailing party  
239 is entitled to recover a reasonable fee for the services of his  
240 or her attorney for trial and appeal or for arbitration, in an  
241 amount to be determined by the court, and the ~~which~~ fee must be  
242 taxed as part of the prevailing party's costs, as allowed in  
243 equitable actions. The time periods for service of a notice of  
244 nonpayment or for bringing an action against a contractor or a  
245 surety shall be measured from the last day of furnishing labor,  
246 services, or materials by the claimant and shall not be measured  
247 by other standards, such as the issuance of a certificate of  
248 occupancy or the issuance of a certificate of substantial  
249 completion.

250 Section 2. Section 713.015, Florida Statutes, is amended to  
251 read:

252 713.015 General statement of owner's rights and  
253 responsibilities ~~Mandatory provisions for direct contracts.-~~

254 (1) For any direct contract greater than \$2,500 between an  
255 owner and a contractor, related to improvements to real property  
256 consisting of single or multiple family dwellings up to and  
257 including four units, the contractor must provide the owner with  
258 a copy of the general statement of owner's rights and  
259 responsibilities under Florida's Construction Lien Law as set  
260 forth in subsection (2), which must be ~~contain the following~~  
261 ~~notice provision~~ printed in no less than 12-point, ~~capitalized,~~

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262 ~~boldfaced type on the front page of the contract or on a~~  
263 ~~separate page, signed by the owner and dated, and submitted with~~  
264 ~~the original building permit application pursuant to s.~~  
265 ~~713.135.~~

266  
267 ~~ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-~~  
268 ~~713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR~~  
269 ~~PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A~~  
270 ~~RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY.~~  
271 ~~THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR~~  
272 ~~OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-~~  
273 ~~SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE PEOPLE WHO ARE OWED~~  
274 ~~MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE~~  
275 ~~ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR~~  
276 ~~CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR~~  
277 ~~PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE~~  
278 ~~SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER~~  
279 ~~SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED~~  
280 ~~TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS~~  
281 ~~CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS~~  
282 ~~REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY~~  
283 ~~PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER."~~  
284 ~~FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS~~  
285 ~~RECOMMENDED THAT YOU CONSULT AN ATTORNEY.~~

286 (2) The general statement of an owner's rights and  
287 responsibilities under Florida's Construction Lien Law must be  
288 in substantially the following form, must include the  
289 information contained in the following form, and must include a  
290 copy of a notice of commencement as provided in s. 713.13(1).

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291  
292 GENERAL STATEMENT OF OWNER'S RIGHTS AND RESPONSIBILITIES

293 UNDER FLORIDA'S CONSTRUCTION LIEN LAW

294 (Required by Section 713.015, Florida Statutes)

295  
296 ABOUT THIS DOCUMENT.—Florida law requires your contractor  
297 to provide you with this document when you are contracting to  
298 make improvements to real property. It is critical that you have  
299 some understanding of Florida's construction lien and payment  
300 laws and take appropriate steps to protect your investment and  
301 fulfill your obligations to those who provide labor, services or  
302 materials for your project.

303  
304 You must acknowledge that you have received and read this  
305 document by signing on the signature page. The original signed  
306 document must be delivered to the building permit authority,  
307 along with the building permit application for your project.  
308 Your building permit application will not be processed unless  
309 this signed document is in the file. You need to retain a copy  
310 of this document so that you can follow the procedures described  
311 in the document and identify the proper statutory forms as you  
312 proceed with your construction project.

313  
314 IT IS ALWAYS RECOMMENDED THAT YOU CONSULT LEGAL ADVICE  
315 BEFORE UNDERTAKING REAL PROPERTY IMPROVEMENTS. IF YOU HAVE  
316 QUESTIONS REGARDING THE INFORMATION CONTAINED IN THIS DOCUMENT,  
317 SEEK THE ADVICE OF A FLORIDA CONSTRUCTION LAW ATTORNEY.

318  
319 THE FLORIDA CONSTRUCTION LIEN LAW.—Part I of chapter 713,

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320 Florida Statutes (F.S.), governs private construction projects  
321 in this state. The complete text of this law can be found at  
322 www.leg.state.fl.us. This statement is a guide and does not take  
323 precedence over the language of Florida's Construction Lien Law.

324  
325 Under this law, those who work on your property or provide  
326 materials and services and who are not paid in full have a right  
327 to enforce their claim for payment against your property. This  
328 claim is known as a construction lien. If your contractor or a  
329 subcontractor fails to pay subcontractors, sub-subcontractors,  
330 or material suppliers, those people who are owed money may look  
331 to your property for payment even if you have already paid your  
332 contractor in full. If you fail to pay your contractor, your  
333 contractor may also have a lien on your property. This means  
334 that if a valid lien is filed, your property could be sold  
335 against your will to pay for labor, services, or materials that  
336 your contractor or a subcontractor may have failed to pay.

337  
338 FLORIDA LAW ALSO PROVIDES PROCEDURES TO PROTECT OWNERS FROM  
339 PAYING MORE THAN THE AMOUNT OF THEIR CONTRACT. IF YOU FOLLOW THE  
340 FOUR STEPS SET FORTH BELOW, YOU WILL PROTECT YOURSELF FROM VALID  
341 LIENS AGAINST YOUR PROPERTY, AND FROM PAYING TWICE FOR LABOR,  
342 SERVICES, OR MATERIALS FURNISHED FOR YOUR PROJECT.

343  
344 STEP 1 - THE NOTICE OF COMMENCEMENT.-An owner is required  
345 by law to complete, sign, and record in the public records a  
346 Notice of Commencement for all direct contracts that exceed  
347 \$2,500. The information provided in the recorded Notice of  
348 Commencement is relied upon by all parties who provide labor,

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349 services or materials for your project. A copy of the statutory  
350 Notice of Commencement form required by s. 713.13, Florida  
351 Statutes, is attached to this document.

352  
353 If a lender is financing your project, the lender will  
354 assist you in completing the Notice of Commencement and is  
355 responsible for recording it in the public records. It is  
356 critical that your Notice of Commencement be recorded after any  
357 construction loan or mortgage documents are recorded. If you are  
358 not using a lender, preparing and recording the Notice of  
359 Commencement is your responsibility. The Notice of Commencement  
360 must be recorded before commencing construction and posted on  
361 your jobsite. For most projects, a copy of the recorded Notice  
362 of Commencement must be submitted to the building permit  
363 authority prior to the first building inspection.

364  
365 STEP 2 - MONITOR THE DOCUMENTS AND NOTICES YOU RECEIVE.-  
366 Pick up your certified mail. Most lien notices are served by  
367 certified mail and you need to know who is providing labor,  
368 services, or materials for your project. The law provides that  
369 any properly addressed notices that are returned to the sender  
370 through no fault of the sender are considered served on the date  
371 sent, so failing to claim certified mail only hurts you.

372  
373 If you expect to be absent for periods of time during your  
374 project, you should have an attorney or other agent in a  
375 position of trust who understands the law handle these details  
376 for you. Make sure someone is receiving your mail and taking  
377 steps to obtain the necessary lien releases before making

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378 payments to your contractor. If you receive anything that you do  
379 not understand, seek the assistance of an experienced  
380 construction law attorney.

381  
382 STEP 3 - OBTAIN SIGNED LIEN WAIVERS EACH TIME YOU MAKE A  
383 PAYMENT TO YOUR CONTRACTOR.—Each time you pay your contractor  
384 you should obtain a Waiver and Release of Lien form from the  
385 contractor AND from anyone who has served you with a Notice to  
386 Owner. Make sure that each release waives lien rights against  
387 your project for work or materials furnished through the date of  
388 the work or materials that your payment covers. This date is  
389 probably not the date you are making the payment, but a date  
390 prior to the payment date through which labor, services, or  
391 materials have been billed.

392  
393 UNDER FLORIDA LAW, YOU HAVE THE RIGHT TO WITHHOLD PAYMENTS  
394 OWED TO THE CONTRACTOR UNTIL YOU HAVE BEEN PROVIDED WITH A  
395 WRITTEN WAIVER AND RELEASE OF LIEN UPON PROGRESS PAYMENT OR A  
396 WRITTEN WAIVER AND RELEASE OF LIEN UPON FINAL PAYMENT SHOWING  
397 THAT THE LIENOR'S CLAIM FOR PAYMENT HAS BEEN PAID.

398  
399 There are two statutory Waiver and Release of Lien forms.  
400 The signed Waiver and Release of Lien Upon Progress Payment  
401 should be provided to you by a contractor, subcontractor, or  
402 material supplier each time you make a progress payment to your  
403 contractor. The signed Waiver and Release of Lien Upon Final  
404 Payment should be submitted by your contractor, a subcontractor,  
405 or material supplier when they are finished furnishing all work  
406 or materials for your project and have received final payment.

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407 Once you receive a final waiver from a contractor,  
 408 subcontractor, or material supplier, you should not need another  
 409 waiver unless they are hired to do additional work.

411 STEP 4 - OBTAIN A CONTRACTOR'S FINAL PAYMENT AFFIDAVIT  
 412 BEFORE YOU MAKE FINAL PAYMENT TO YOUR CONTRACTOR.-In addition to  
 413 obtaining Final Waiver and Release of Lien forms from the  
 414 contractor and anyone who has served you with a Notice to Owner,  
 415 you should obtain a Contractor's Final Payment Affidavit before  
 416 you make final payment to your contractor. This sworn affidavit  
 417 should reflect that everyone who supplied labor, services, or  
 418 materials on your project has been paid in full or should list  
 419 those subcontractors and suppliers who are still owed money.  
 420 Make sure that anyone listed as not being paid in full is paid  
 421 before making final payment to your contractor. You have a right  
 422 to rely on the information contained in the sworn affidavit when  
 423 you make final payment to your contractor with respect to any  
 424 lienor who has not served a Notice to Owner. If a lienor has  
 425 served you with a Notice to Owner, you should obtain a Waiver  
 426 and Release of Lien Upon Final Payment from that lienor.

427  
 428 OWNER'S ACKNOWLEDGMENT AND RECEIPT

429  
 430 The undersigned owner(s) of Florida real property hereby  
 431 acknowledge that they are preparing to enter into a contract  
 432 with \_\_\_\_\_ for the  
 433 construction of real property improvements to the following-  
 434 described property (insert address or legal description):

435 \_\_\_\_\_

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436  
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438  
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463  
464

\_\_\_\_\_  
..(Signature of Property Owner).....(Date)...  
...(Signature of Property Owner).....(Date)...

Attached Statutory Form: Notice of Commencement  
requirements for contractors can be obtained online at  
www.myflorida.com/dbpr/pro/cilb.

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

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

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

Section 3. Paragraph (c) of subsection (2) of section 713.06, Florida Statutes, is amended to read:

713.06 Liens of persons not in privity; proper payments.-  
(2)

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

WARNING! FLORIDA'S CONSTRUCTION LIEN LAW ALLOWS SOME UNPAID CONTRACTORS, SUBCONTRACTORS, AND MATERIAL



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465 SUPPLIERS TO FILE LIENS AGAINST YOUR PROPERTY EVEN IF  
466 YOU HAVE MADE PAYMENT IN FULL.

467  
468 UNDER FLORIDA LAW, YOUR FAILURE TO MAKE SURE THAT WE ARE PAID  
469 MAY RESULT IN A LIEN AGAINST YOUR PROPERTY AND YOUR PAYING  
470 TWICE.

471 TO PROTECT YOURSELF, EACH TIME YOU MAKE A PAYMENT TO THE  
472 CONTRACTOR ASK YOUR CONTRACTOR TO PROVIDE YOU WITH A WRITTEN  
473 WAIVER AND RELEASE OF LIEN FROM US. FOR ADDITIONAL INFORMATION,  
474 REFER TO THE GENERAL STATEMENT OF OWNER'S RIGHTS AND  
475 RESPONSIBILITIES WHICH WAS PROVIDED TO YOU BY OUR CONTRACTOR AT  
476 THE BEGINNING OF YOUR CONSTRUCTION PROJECT. AVOID A LIEN AND  
477 ~~PAYING TWICE, YOU MUST OBTAIN A WRITTEN RELEASE FROM US EVERY~~  
478 ~~TIME YOU PAY YOUR CONTRACTOR.~~

479 NOTICE TO OWNER

480  
481 To ...(Owner's name and address)...

482  
483 The undersigned hereby informs you that he or she has furnished  
484 or is furnishing services or materials as follows:

485 ...(General description of services or materials)... for the  
486 improvement of the real property identified as ...(property  
487 description)... under an order given by.....

488  
489 Florida law prescribes the serving of this notice and restricts  
490 your right to make payments under your contract in accordance  
491 with Section 713.06, Florida Statutes.

492 IMPORTANT INFORMATION FOR  
493 YOUR PROTECTION

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494

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

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

503

504 PROTECT YOURSELF:

505 -RECOGNIZE that this Notice to Owner may result in a lien  
506 against your property unless all those supplying a Notice to  
507 Owner have been paid.

508 -LEARN more about the Construction Lien Law, Chapter 713,  
509 Part I, Florida Statutes, and the meaning of this notice by  
510 contacting an attorney or the Florida Department of Business and  
511 Professional Regulation.

512 ... (Lienor's Signature) ...

513 ... (Lienor's Name) ...

514 ... (Lienor's Address) ...

515

516 Copies to: ... (Those persons listed in Section 713.06(2) (a) and  
517 (b), Florida Statutes) ...

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

521 Section 4. Section 713.13, Florida Statutes, is amended to  
522 read:

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523 713.13 Notice of commencement.—

524 (1) (a) Except for an improvement that is exempt pursuant to  
525 s. 713.02(5), an owner or the owner's authorized agent before  
526 actually commencing to improve any real property, or  
527 recommencing completion of any improvement after default or  
528 abandonment, whether or not a project has a payment bond  
529 complying with s. 713.23, shall record a notice of commencement  
530 in the clerk's office and forthwith post either a certified copy  
531 thereof or a notarized statement that the notice of commencement  
532 has been filed for recording along with a copy thereof. The  
533 notice of commencement shall contain the following information:

534 1. A description sufficient for identification of the real  
535 property to be improved. The description should include the  
536 legal description of the property and also should include the  
537 street address and tax folio number of the property if available  
538 or, if there is no street address available, such additional  
539 information as will describe the physical location of the real  
540 property to be improved.

541 2. A general description of the improvement.

542 3. The name and address of the owner, the owner's interest  
543 in the site of the improvement, and the name and address of the  
544 fee simple titleholder, if other than such owner.

545 4. The name and address of the contractor.

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

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

550 7. The name and address within the state of a person other  
551 than himself or herself who may be designated by the owner as

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552 the person upon whom notices or other documents may be served  
 553 under this part; and service upon the person so designated  
 554 constitutes service upon the owner.

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

560 (c) If the contract between the owner and a contractor  
 561 named in the notice of commencement expresses a period of time  
 562 for completion for the construction of the improvement greater  
 563 than 1 year, the notice of commencement must state that it is  
 564 effective for a period of 1 year plus any additional period of  
 565 time. Any payments made by the owner after the expiration of the  
 566 notice of commencement are considered improper payments.

567 (d) A notice of commencement must be in substantially the  
 568 following form:

569  
 570 Permit No..... Tax Folio No.....

571 NOTICE OF COMMENCEMENT

572 State of....

573 County of....

574  
 575 The undersigned hereby gives notice that improvement will be  
 576 made to certain real property, and in accordance with Chapter  
 577 713, Florida Statutes, the following information is provided in  
 578 this Notice of Commencement.

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

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581           2. General description of improvement:.....

582           3. Owner information:.....

583           a. Name and address:.....

584           b. Interest in property:.....

585           c. Name and address of fee simple titleholder (if other

586 than Owner):.....

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

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

589           5. Surety...(a copy of the payment bond is attached, if the

590 project is bonded....

591           a. Name and address:.....

592           b. Phone number:.....

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

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

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

596           7.a. Persons within the State of Florida designated by

597 Owner upon whom notices or other documents may be served as

598 provided by Section 713.13(1)(a)7., Florida Statutes: ...(name

599 and address)....

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

601           8.a. In addition to himself or herself, Owner designates

602 ..... of ..... to receive a copy of the Lienor's

603 Notice as provided in Section 713.13(1)(b), Florida Statutes.

604           b. Phone number of person or entity designated by

605 owner:.....

606           9. Expiration date of notice of commencement (the

607 expiration date is 1 year from the date of recording unless a

608 later ~~different~~ date is specified).....

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610 WARNING TO OWNER: IF THIS NOTICE OF COMMENCEMENT WILL EXPIRE  
611 BEFORE ALL WORK IS COMPLETED AND FINAL PAYMENT IS MADE, THE  
612 EXPIRATION DATE MUST BE EXTENDED. ANY PAYMENTS MADE BY THE OWNER  
613 AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE  
614 CONSIDERED IMPROPER PAYMENTS UNDER CHAPTER 713, PART I, SECTION  
615 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE  
616 FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST  
617 BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST  
618 INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR  
619 LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR  
620 NOTICE OF COMMENCEMENT.

621  
622 Under penalty of perjury, I declare that I have read the  
623 foregoing notice of commencement and that the facts stated  
624 therein are true to the best of my knowledge and belief.

625  
626 ... (Signature of Owner or Owner's Authorized  
627 Officer/Director/Partner/Manager) ...

628  
629 ... (Signatory's Title/Office) ...

630  
631 The foregoing instrument was acknowledged before me this ....  
632 day of ....., ... (year) ..., by ... (name of person) ... as ... (type  
633 of authority, ... e.g. officer, trustee, attorney in fact) ... for  
634 ... (name of party on behalf of whom instrument was executed) ...

635  
636 ... (Signature of Notary Public - State of Florida) ...

637  
638 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

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

Type of Identification Produced.....

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

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

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

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

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

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

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

671 (3) The recording of a notice of commencement does not  
672 constitute a lien, cloud, or encumbrance on real property, but  
673 gives constructive notice that claims of lien under this part  
674 may be recorded and may take priority as provided in s. 713.07.  
675 The posting of a copy does not constitute a lien, cloud, or  
676 encumbrance on real property, nor actual or constructive notice  
677 of any of them.

678 (4) This section does not apply to an owner who is  
679 constructing improvements described in s. 713.04.

680 (5) (a) A notice of commencement that is recorded within the  
681 effective period may be amended to extend the effective period,  
682 change erroneous information in the original notice~~7~~ or add  
683 information that was omitted from the original notice. However,  
684 in order to change contractors, a new notice of commencement or  
685 notice of recommencement must be executed and recorded.

686 (b) The amended notice must identify the official records  
687 book and page where the original notice of commencement is  
688 recorded, and a copy of the amended notice must be served by the  
689 owner upon the contractor and each lienor who serves notice  
690 before or within 30 days after the date the amended notice is  
691 recorded.

692 (6) Unless otherwise provided in the notice of commencement  
693 or a new or amended notice of commencement, a notice of  
694 commencement is not effectual in law or equity against a  
695 conveyance, transfer, or mortgage of or lien on the real  
696 property described in the notice, or against creditors or



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697 subsequent purchasers for a valuable consideration, after 1 year  
698 after the date of recording the notice of commencement.

699 (7) A lender must, prior to the disbursement of any  
700 construction funds to the contractor, record the notice of  
701 commencement in the clerk's office as required by this section;  
702 however, the lender is not required to post a certified copy of  
703 the notice at the construction site. The posting of the notice  
704 at the construction site remains the owner's obligation. The  
705 failure of a lender to record the notice of commencement as  
706 required by this subsection renders the lender liable to the  
707 owner for all damages sustained by the owner as a result of the  
708 failure. Whenever a lender is required to record a notice of  
709 commencement, the lender shall designate the lender, in addition  
710 to others, to receive copies of notices to owner. This  
711 subsection does not give any person other than the owner a claim  
712 or right of action against a lender for failure to record a  
713 notice of commencement.

714 Section 5. Section 713.135, Florida Statutes, is amended to  
715 read:

716 713.135 Notice of commencement and applicability of lien.-

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

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

725 (b) ~~(a)~~ Print on the face of each permit card in no less

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726 than 14-point, capitalized, boldfaced type: "WARNING TO OWNER:  
727 IF YOU FAIL ~~YOUR FAILURE~~ TO RECORD A NOTICE OF COMMENCEMENT, YOU  
728 MAY PAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR  
729 PROPERTY. A NOTICE OF COMMENCEMENT, AND THE CONTRACTOR'S PAYMENT  
730 BOND IF THE PROJECT IS BONDED, MUST BE RECORDED AND POSTED ON  
731 THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO  
732 OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE  
733 RECORDING YOUR NOTICE OF COMMENCEMENT."

734 (c) ~~(b)~~ Make available to ~~Provide~~ the applicant and the  
735 owner of the real property upon which improvements are to be  
736 constructed copies of the general statement of an owner's rights  
737 and responsibilities under Florida's ~~with a printed statement~~  
738 ~~stating that the right, title, and interest of the person who~~  
739 ~~has contracted for the improvement may be subject to attachment~~  
740 ~~under the Construction Lien Law,~~ as described in s. 713.015,  
741 along with the attached statutory form. The issuing authority  
742 may make the general statement and form available in printed  
743 form or on the Internet or both. ~~The Department of Business and~~  
744 ~~Professional Regulation shall furnish, for distribution, the~~  
745 ~~statement described in this paragraph, and the statement must be~~  
746 ~~a summary of the Construction Lien Law and must include an~~  
747 ~~explanation of the provisions of the Construction Lien Law~~  
748 ~~relating to the recording, and the posting of copies, of notices~~  
749 ~~of commencement and a statement encouraging the owner to record~~  
750 ~~a notice of commencement and post a copy of the notice of~~  
751 ~~commencement in accordance with s. 713.13. The statement must~~  
752 ~~also contain an explanation of the owner's rights if a lienor~~  
753 ~~fails to furnish the owner with a notice as provided in s.~~  
754 ~~713.06(2) and an explanation of the owner's rights as provided~~

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755 ~~in s. 713.22. The authority that issues the building permit must~~  
756 ~~obtain from the Department of Business and Professional~~  
757 ~~Regulation the statement required by this paragraph and must~~  
758 ~~mail, deliver by electronic mail or other electronic format or~~  
759 ~~facsimile, or personally deliver that statement to the owner or,~~  
760 ~~in a case in which the owner is required to personally appear to~~  
761 ~~obtain the permit, provide that statement to any owner making~~  
762 ~~improvements to real property consisting of a single or multiple~~  
763 ~~family dwelling up to and including four units. However, the~~  
764 ~~failure by the authorities to provide the summary does not~~  
765 ~~subject the issuing authority to liability.~~

766 ~~(c) In addition to providing the owner with the statement~~  
767 ~~as required by paragraph (b), inform each applicant who is not~~  
768 ~~the person whose right, title, and interest is subject to~~  
769 ~~attachment that, as a condition to the issuance of a building~~  
770 ~~permit, the applicant must promise in good faith that the~~  
771 ~~statement will be delivered to the person whose property is~~  
772 ~~subject to attachment.~~

773 ~~(d) Furnish to the applicant two or more copies of a form~~  
774 ~~of notice of commencement conforming with s. 713.13. If the~~  
775 ~~direct contract is greater than \$2,500, the applicant shall file~~  
776 ~~with the issuing authority prior to the first inspection either~~  
777 ~~a certified copy of the recorded notice of commencement or a~~  
778 ~~notarized statement that the notice of commencement has been~~  
779 ~~filed for recording, along with a copy thereof. In the absence~~  
780 ~~of the filing of a certified copy of the recorded notice of~~  
781 ~~commencement, the issuing authority or a private provider~~  
782 ~~performing inspection services may not perform or approve~~  
783 ~~subsequent inspections until the applicant files by mail,~~

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784 ~~facsimile, hand delivery, or any other means such certified copy~~  
785 ~~with the issuing authority. The certified copy of the notice of~~  
786 ~~commencement must contain the name and address of the owner, the~~  
787 ~~name and address of the contractor, and the location or address~~  
788 ~~of the property being improved. The issuing authority shall~~

789 (d) Verify that the name and address of the owner, the name  
790 of the contractor, and the location or address of the property  
791 being improved which is contained in the certified copy of the  
792 notice of commencement is consistent with the information in the  
793 building permit application.

794 (e) Provide the recording information from the official  
795 public records in which the notice of commencement and payment  
796 bond, if any, are recorded to any person upon request. The  
797 ~~issuing authority shall provide the recording information on the~~  
798 ~~certified copy of the recorded notice of commencement to any~~  
799 ~~person upon request. This subsection does not require the~~  
800 ~~recording of a notice of commencement prior to the issuance of a~~  
801 ~~building permit. If a local government requires a separate~~  
802 ~~permit or inspection for installation of temporary electrical~~  
803 ~~service or other temporary utility service, land clearing, or~~  
804 ~~other preliminary site work, such permits may be issued and such~~  
805 ~~inspections may be conducted without providing the issuing~~  
806 ~~authority with a certified copy of a recorded notice of~~  
807 ~~commencement or a notarized statement regarding a recorded~~  
808 ~~notice of commencement. This subsection does not apply to a~~  
809 ~~direct contract to repair or replace an existing heating or air-~~  
810 ~~conditioning system in an amount less than \$7,500.~~

811 (f)-(e) Not require that a notice of commencement be  
812 recorded as a condition of the application for, or processing or

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813 issuance of, a building permit. ~~However, this paragraph does not~~  
814 ~~modify or waive the inspection requirements set forth in this~~  
815 ~~subsection.~~

816 (g) Not require that a notice of commencement be recorded  
817 or provided for those projects described in s. 713.137(2).

818 (2) An issuing authority under subsection (1) is not liable  
819 in any civil action for the failure of the person whose property  
820 is subject to attachment to receive or to be delivered the  
821 general statement of an owner's rights and responsibilities  
822 under Florida's a printed statement stating that the right,  
823 title, and interest of the person who has contracted for the  
824 improvement may be subject to attachment under the Construction  
825 Lien Law as provided in s. 713.015.

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

830 (4) The several boards of county commissioners, municipal  
831 councils, or other similar bodies may by ordinance or resolution  
832 establish reasonable fees for furnishing, upon request, copies  
833 of the forms and the printed statement provided in paragraph  
834 (1) (a) paragraphs (1) (b) and (d) in an amount not to exceed \$5  
835 to be paid by the applicant for each permit in addition to all  
836 other costs of the permit; ~~however, no forms or statement need~~  
837 ~~be furnished, mailed, or otherwise provided to, nor may such~~  
838 ~~additional fee be obtained from, applicants for permits in those~~  
839 ~~cases in which the owner of a legal or equitable interest~~  
840 ~~(including that of ownership of stock of a corporate landowner)~~  
841 ~~of the real property to be improved is engaged in the business~~

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842 ~~of construction of buildings for sale to others and intends to~~  
843 ~~make the improvements authorized by the permit on the property~~  
844 ~~and upon completion will offer the improved real property for~~  
845 ~~sale.~~

846 (5) In addition to any other information required by the  
847 authority issuing the permit, each building permit application  
848 must contain:

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

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

851 (c) A description sufficient to identify the real property  
852 to be improved; and

853 (d) The number or identifying symbol assigned to the  
854 building permit by the issuing authority, which ~~number or symbol~~  
855 must be affixed to the application by the issuing authority.

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

860 Tax Folio No.....

861 BUILDING PERMIT APPLICATION

863 Owner's Name.....

864 Owner's Address.....

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

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

867 City.....

868 State..... Zip.....

869 Contractor's Name.....

870 Contractor's Address.....

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871 City.....

872 State..... Zip.....

873 Job Name.....

874 Job Address.....

875 City..... County.....

876 Legal Description.....

877 Bonding Company.....

878 Bonding Company Address.....

879 City..... State.....

880 Architect/Engineer's Name.....

881 Architect/Engineer's Address.....

882 Mortgage Lender's Name.....

883 Mortgage Lender's Address.....

884

885       Application is hereby made to obtain a permit to do the

886 work and installations as indicated. I certify that no work or

887 installation has commenced prior to the issuance of a permit and

888 that all work will be performed to meet the standards of all

889 laws regulating construction in this jurisdiction. I understand

890 that a separate permit must be secured for ELECTRICAL WORK,

891 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,

892 TANKS, and AIR CONDITIONERS, etc.

893

894 OWNER'S AFFIDAVIT: I certify that all the foregoing information

895 is accurate and that all work will be done in compliance with

896 all applicable laws regulating construction and zoning.

897

898       WARNING TO OWNER: IF YOU FAIL ~~YOUR FAILURE~~ TO RECORD A

899 NOTICE OF COMMENCEMENT, YOU MAY PAY ~~RESULT IN YOUR~~

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900 ~~PAYING~~ TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A  
901 NOTICE OF COMMENCEMENT, AND THE CONTRACTOR'S PAYMENT  
902 BOND IF THE PROJECT IS BONDED, MUST BE RECORDED AND  
903 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION.

904  
905 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR  
906 LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR  
907 RECORDING YOUR NOTICE OF COMMENCEMENT.

908  
909 ... (Signature of Owner or Agent) ...

910  
911 ... (including contractor) ...

912 STATE OF FLORIDA  
913 COUNTY OF ....

914  
915 Sworn to (or affirmed) and subscribed before me this ....  
916 day of ....., ... (year) ..., by ... (name of person making  
917 statement) ....

918  
919 ... (Signature of Notary Public - State of Florida) ...  
920 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

921  
922 Personally Known .... OR Produced Identification ....

923  
924 Type of Identification Produced.....

925 ... (Signature of Contractor) ...

926  
927 STATE OF FLORIDA  
928 COUNTY OF ....



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Sworn to (or affirmed) and subscribed before me this ....  
day of ....., ...(year)..., by ...(name of person making  
statement)....  
...(Signature of Notary Public - State of Florida)...  
...(Print, Type, or Stamp Commissioned Name of Notary Public)...

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

Type of Identification Produced.....  
(Certificate of Competency Holder)

Contractor's State Certification or Registration No.....

Contractor's Certificate of Competency No.....

APPLICATION APPROVED BY  
.....Permit Officer

(b) Consistent with the requirements of paragraph (a), an  
authority responsible for issuing building permits under this  
section may accept a building permit application in an  
electronic format, as prescribed by the authority. Building  
permit applications submitted to the authority electronically  
must contain the following additional statement in lieu of the  
requirement in paragraph (a) that a signed, sworn, and notarized  
signature of the owner or agent and the contractor be part of  
the owner's affidavit:

OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of

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958 perjury, I declare that all the information contained in this  
959 building permit application is true and correct.

960 (c) An authority responsible for issuing building permit  
961 applications which accepts building permit applications in an  
962 electronic format shall provide public Internet access to the  
963 electronic building permit applications in a searchable format.

964 (7) This section applies to every municipality and county  
965 in the state which now has or hereafter may have a system of  
966 issuing building permits for the construction of improvements or  
967 for the alteration or repair of improvements on or to real  
968 property located within the geographic limits of the issuing  
969 authority.

970 Section 6. Section 713.137, Florida Statutes, is created to  
971 read:

972 713.137 Prerequisites to inspection of improvements;  
973 exceptions.—

974 (1) The authority issuing a building permit or a private  
975 provider performing inspection services may not inspect the real  
976 property being improved unless:

977 (a) The following documents have been filed with the  
978 issuing authority:

979 1.a. A certified copy of the recorded notice of  
980 commencement; or

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

983 2. If the permit is for a commercial project:

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

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

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

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

993       (2) This section does not apply to inspections of the  
994 following improvements:

995       (a) The installation of temporary electrical service or  
996 other temporary utility service, land clearing, or other  
997 preliminary site work.

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

1000       (c) The repair or replacement of a heating or air-  
1001 conditioning system pursuant to a direct contract in an amount  
1002 of \$7,500 or less.

1003       Section 7. Section 713.16, Florida Statutes, is amended to  
1004 read:

1005       713.16 Demand for copy of contract and statements of  
1006 account; form.—

1007       (1) A copy of the contract of a lienor or owner and a  
1008 statement of the amount due or to become due if fixed or  
1009 ascertainable thereon must be furnished by any party thereto,  
1010 upon written demand of an owner or a lienor contracting with or  
1011 employed by the other party to such contract. If the owner or  
1012 lienor refuses or neglects to furnish such copy of the contract  
1013 or such statement, or willfully and falsely states the amount  
1014 due or to become due if fixed or ascertainable under such  
1015 contract, any person who suffers any detriment thereby has a

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1016 cause of action against the person refusing or neglecting to  
1017 furnish the same or willfully and falsely stating the amount due  
1018 or to become due for his or her damages sustained thereby. The  
1019 information contained in such copy or statement furnished  
1020 pursuant to such written demand is binding upon the owner or  
1021 lienor furnishing it unless actual notice of any modification is  
1022 given to the person demanding the copy or statement before such  
1023 person acts in good faith in reliance on it. The person  
1024 demanding such documents must pay for the reproduction thereof;  
1025 and, if such person fails or refuses to do so, he or she is  
1026 entitled only to inspect such documents at reasonable times and  
1027 places.

1028 (2) The owner may serve in writing a demand of any lienor  
1029 for a written statement under oath of his or her account showing  
1030 the nature of the labor or services performed and to be  
1031 performed, if any, the materials furnished, the materials to be  
1032 furnished, if known, the amount paid on account to date, the  
1033 amount due, and the amount to become due, if known, as of the  
1034 date of the statement by the lienor. Any such demand to a lienor  
1035 must be served on the lienor at the address and to the attention  
1036 of any person who is designated to receive the demand in the  
1037 notice to owner served by such lienor and must include a  
1038 description of the project, including the names of the owner,  
1039 the contractor, and the lienor's customer, sufficient for the  
1040 lienor to properly identify the account in question. The failure  
1041 or refusal to furnish the statement does not deprive the lienor  
1042 of his or her lien if the demand is not served at the address of  
1043 the lienor or directed to the attention of the person designated  
1044 to receive the demand in the notice to owner. The failure or

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1045 refusal to furnish the statement under oath within 30 days after  
1046 the demand, or the furnishing of a false or fraudulent  
1047 statement, deprives the person so failing or refusing to furnish  
1048 such statement of his or her lien. If the owner serves more than  
1049 one demand for statement of account on a lienor and none of the  
1050 information regarding the account has changed since the lienor's  
1051 last response to a demand, the failure or refusal to furnish  
1052 such statement does not deprive the lienor of his or her lien.  
1053 The negligent inclusion or omission of any information deprives  
1054 the person of his or her lien to the extent the owner can  
1055 demonstrate prejudice from such act or omission by the lienor.  
1056 The failure to furnish a response to a demand for statement of  
1057 account does not affect the validity of any claim of lien being  
1058 enforced through a foreclosure case filed prior to the date the  
1059 demand for statement is received by the lienor.

1060 (3) A request for sworn statement of account must be in  
1061 substantially the following form:

1062 REQUEST FOR SWORN STATEMENT OF ACCOUNT

1063  
1064 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT, SIGNED  
1065 UNDER OATH, WITHIN 30 DAYS OR THE FURNISHING OF A FALSE  
1066 STATEMENT WILL RESULT IN THE LOSS OF YOUR LIEN.

1067  
1068 To: ...(Lienor's name and address)...

1069  
1070 The undersigned hereby demands a written statement under oath of  
1071 his or her account showing the nature of the labor or services  
1072 performed and to be performed, if any, the materials furnished,  
1073 the materials to be furnished, if known, the amount paid on

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1074 account to date, the amount due, and the amount to become due,  
 1075 if known, as of the date of the statement for the improvement of  
 1076 real property identified as .....(property description).....  
 1077 Name of contractor: .....  
 1078 Name of the lienor's customer (as specified in the lienor's  
 1079 Notice to Owner, if such notice has been served): .....  
 1080 ... (signature and address of owner)...  
 1081 .....(date of request for sworn statement of account).....  
 1082 (4) When a contractor has furnished a payment bond pursuant  
 1083 to s. 713.23, he or she may, when an owner makes any payment to  
 1084 the contractor or directly to a lienor, serve a written demand  
 1085 on any other lienor for a written statement under oath of his or  
 1086 her account showing the nature of the labor or services  
 1087 performed and to be performed, if any, the materials furnished,  
 1088 the materials to be furnished, if known, the amount paid on  
 1089 account to date, the amount due, and the amount to become due,  
 1090 if known, as of the date of the statement by the lienor. Any  
 1091 such demand to a lienor must be served on the lienor at the  
 1092 address and to the attention of any person who is designated to  
 1093 receive the demand in the notice to contractor served by such  
 1094 lienor. The failure or refusal to furnish the statement does not  
 1095 deprive the lienor of his or her rights under the bond if the  
 1096 demand is not served at the address of the lienor or directed to  
 1097 the attention of the person designated to receive the demand in  
 1098 the notice to contractor or if the demand does not include a  
 1099 description of the project, including the names of the owner,  
 1100 the contractor, and the lienor's customer as set forth in the  
 1101 lienor's notice to contractor, sufficient for the lienor to  
 1102 properly identify the account in question. The failure to

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1103 furnish the statement within 30 days after the demand, or the  
1104 furnishing of a false or fraudulent statement, deprives the  
1105 person who fails to furnish the statement, or who furnishes the  
1106 false or fraudulent statement, of his or her rights under the  
1107 bond. If the contractor serves more than one demand for  
1108 statement of account on a lienor and none of the information  
1109 regarding the account has changed since the lienor's last  
1110 response to a demand, the failure or refusal to furnish such  
1111 statement does not deprive the lienor of his or her rights under  
1112 the bond. The negligent inclusion or omission of any information  
1113 deprives the person of his or her rights under the bond to the  
1114 extent the contractor can demonstrate prejudice from such act or  
1115 omission by the lienor. The failure to furnish a response to a  
1116 demand for statement of account does not affect the validity of  
1117 any claim on the bond being enforced in a lawsuit filed prior to  
1118 the date the demand for statement of account is received by the  
1119 lienor.

1120 (5) (a) Any lienor who submits or mails ~~has recorded~~ a claim  
1121 of lien to the clerk for recording may make written demand on  
1122 the owner for a written statement under oath showing:

1123 1. The amount of the direct contract under which the lien  
1124 was recorded;

1125 2. The dates and amounts paid or to be paid by or on behalf  
1126 of the owner for all improvements described in the direct  
1127 contract;

1128 3. The reasonable estimated costs of completing the direct  
1129 contract under which the lien was claimed pursuant to the scope  
1130 of the direct contract; and

1131 4. If known, the actual cost of completion.

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1132 (b) Any owner who does not provide the statement within 30  
1133 days after demand, or who provides a false or fraudulent  
1134 statement, is not a prevailing party for purposes of an award of  
1135 attorney's fees under s. 713.29. The written demand must include  
1136 the following warning in conspicuous type in substantially the  
1137 following form:

1138 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT  
1139 WITHIN 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL  
1140 RESULT IN THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY  
1141 ACTION TO ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING  
1142 THIS STATEMENT.

1143 (6) Any written demand served on the owner shall include a  
1144 description of the project, including the names of the  
1145 contractor and the lienor's customer as set forth in the  
1146 lienor's notice to owner, sufficient for the owner to properly  
1147 identify the project in question.

1148 (7)~~(6)~~ For purposes of this section, the term "information"  
1149 means the nature and quantity of the labor, services, and  
1150 materials furnished or to be furnished by a lienor and the  
1151 amount paid, the amount due, and the amount to become due on the  
1152 lienor's account.

1153 Section 8. Section 713.18, Florida Statutes, is amended to  
1154 read:

1155 713.18 Manner of serving notices and other instruments.—

1156 (1) Service of notices, claims of lien, affidavits,  
1157 assignments, and other instruments permitted or required under  
1158 this part, or copies thereof when so permitted or required,  
1159 unless otherwise specifically provided in this part, must be  
1160 made by one of the following methods:



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1161 (a) By actual delivery to the person to be served; if a  
1162 partnership, to one of the partners; if a corporation, to an  
1163 officer, director, managing agent, or business agent; or, if a  
1164 limited liability company, to a member or manager.

1165 (b) By sending the same by common carrier delivery service  
1166 or registered, global express guaranteed, or certified mail,  
1167 with postage prepaid, and ~~or by overnight or second-day delivery~~  
1168 with evidence of delivery, which may be in an electronic format.

1169 (c) ~~If the method specified in paragraph (a) or paragraph~~  
1170 ~~(b) cannot be accomplished,~~ By posting on the site of the  
1171 improvement if service as provided by paragraph (a) or paragraph  
1172 (b) cannot be accomplished premises.

1173 (2) Notwithstanding subsection (1), service of ~~if~~ a notice  
1174 to owner, a notice to contractor under s. 713.23, or a  
1175 preliminary notice under s. 255.05 is ~~mailed by registered or~~  
1176 ~~certified mail with postage prepaid to the person to be served~~  
1177 ~~at any of the addresses set forth in subsection (3) within 40~~  
1178 ~~days after the date the lienor first furnishes labor, services,~~  
1179 ~~or materials, service of that notice is~~ effective as of the date  
1180 of mailing if:

1181 (a) The notice is mailed by registered, global express  
1182 guaranteed, or certified mail, with postage prepaid, to the  
1183 person to be served at any of the addresses set forth in  
1184 subsection (3);

1185 (b) The notice is mailed within 40 days after the date the  
1186 lienor first furnishes labor, services, or materials; and

1187 (c) 1. The person who served the notice maintains a  
1188 registered or certified mail log that shows the registered or  
1189 certified mail number issued by the United States Postal

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1190 Service, the name and address of the person served, and the date  
1191 stamp of the United States Postal Service confirming the date of  
1192 mailing; or ~~if~~

1193 2. The person who served the notice maintains electronic  
1194 tracking records generated through use of the United States  
1195 Postal Service Confirm service or a similar service containing  
1196 the postal tracking number, the name and address of the person  
1197 served, and verification of the date of receipt by the United  
1198 States Postal Service.

1199 (3) (a) Service of ~~if~~ an instrument ~~served~~ pursuant to this  
1200 section is effective on the date of mailing if the instrument:

1201 1. Was sent to the last address shown in the notice of  
1202 commencement or any amendment thereto or, in the absence of a  
1203 notice of commencement, to the last address shown in the  
1204 building permit application, or to the last known address of the  
1205 person to be served; ~~and, is not received, but~~

1206 2. Is returned as being "refused," "moved, not  
1207 forwardable," or "unclaimed," or is otherwise not delivered or  
1208 deliverable through no fault of the person serving the item, ~~then service is effective on the date the instrument was sent.~~

1210 (b) If the address information shown in the notice of  
1211 commencement or any amendment to the notice, or in the absence  
1212 of a notice of commencement, in the building permit application,  
1213 is incomplete for purposes of mailing or delivery, the person  
1214 serving the item may complete the address and properly format it  
1215 according to United States Postal Service addressing standards  
1216 using information obtained from the property appraiser or  
1217 another public record or directory without affecting the  
1218 validity of service under this section.



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1248 filed by you on ....., ...(year)..., and recorded in .... Book  
 1249 ....., Page ....., of the public records of .... County, Florida,  
 1250 and that the time within which you may file suit to enforce your  
 1251 lien is limited to 60 days from the date of service of this  
 1252 notice. This .... day of ....., ...(year).....

1253 Signed: ...(Owner or Attorney)...  
 1254

1255 The lien of any lienor upon whom such notice is served and who  
 1256 fails to institute a suit to enforce his or her lien within 60  
 1257 days after service of such notice shall be extinguished  
 1258 automatically. The clerk shall mail a copy of the notice of  
 1259 contest to the lien claimant at the address shown in the claim  
 1260 of lien or most recent amendment thereto, by certified or  
 1261 registered mail, return receipt requested, and shall certify to  
 1262 such service on the face of such notice and record the notice.  
 1263 ~~Service shall be deemed complete upon mailing.~~

1264 Section 10. Paragraph (e) of subsection (1) and subsections  
 1265 (2) and (4) of section 713.23, Florida Statutes, are amended to  
 1266 read:

1267 713.23 Payment bond.—

1268 (1)

1269 (e) An ~~No~~ action for the labor or materials or supplies may  
 1270 not be instituted or prosecuted against the contractor or surety  
 1271 unless both notices have been given. An ~~No~~ action may not ~~shall~~  
 1272 be instituted or prosecuted against the contractor or against  
 1273 the surety on the bond under this section after 1 year from the  
 1274 performance of the labor or completion of delivery of the  
 1275 materials and supplies. The time period for bringing an action  
 1276 against the contractor or surety on the bond shall be measured

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1277 from the last day of furnishing labor, services, or materials by  
1278 the lienor. The time period may ~~and shall~~ not be measured by  
1279 other standards, such as the issuance of a certificate of  
1280 occupancy or the issuance of a certificate of substantial  
1281 completion. A contractor or the contractor's agent or attorney  
1282 may elect to shorten the ~~prescribed~~ time within which an action  
1283 to enforce any claim against a payment bond ~~provided~~ under this  
1284 section or s. 713.245 must ~~may~~ be commenced at any time after a  
1285 notice of nonpayment, if required, has been served for the claim  
1286 by recording in the clerk's office a notice in substantially the  
1287 following form:

## NOTICE OF CONTEST OF CLAIM

## AGAINST PAYMENT BOND

1290 To: ...(Name and address of lienor)...

1291 You are notified that the undersigned contests your notice  
1292 of nonpayment, dated ....., ....., and served on the undersigned  
1293 on ....., ....., and that the time within which you may file suit  
1294 to enforce your claim is limited to 60 days from the date of  
1295 service of this notice.

1296  
1297 DATED on ....., .....

1298  
1299 Signed: ...(Contractor or Attorney)...

1300  
1301 The claim of any lienor upon whom the notice is served and who  
1302 fails to institute a suit to enforce his or her claim against  
1303 the payment bond within 60 days after service of the notice  
1304 shall be extinguished automatically. The clerk shall mail a copy  
1305 of the notice of contest to the lienor at the address shown in

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1306 the notice of nonpayment or most recent amendment thereto, by  
1307 certified or registered mail, return receipt requested, and  
1308 shall certify to such service on the face of the notice and  
1309 record the notice. ~~Service is complete upon mailing.~~

1310 (2) The bond shall secure every lien under the direct  
1311 contract accruing subsequent to its execution and delivery,  
1312 except that of the contractor. Every claim of lien, except that  
1313 of the contractor, filed subsequent to execution and delivery of  
1314 the bond shall be transferred to it with the same effect as  
1315 liens transferred under s. 713.24. Record notice of the transfer  
1316 shall be effected by the contractor, or any person having an  
1317 interest in the property against which the claim of lien has  
1318 been asserted, by recording in the clerk's office a notice in  
1319 substantially the following form:

## NOTICE OF BOND

1320  
1321  
1322 To ...(Name and Address of Lienor)...

1323  
1324 You are notified that the claim of lien filed by you on .....,  
1325 ....., and recorded in Official Records Book .... at page .... of  
1326 the public records of .... County, Florida, is secured by a  
1327 bond, a copy being attached.

1328  
1329 Signed: ...(Name of person recording notice)...

1330  
1331 The notice shall be verified. The clerk shall mail a copy of the  
1332 notice to the lienor at the address shown in the claim of lien,  
1333 or the most recent amendment to it; shall certify to the service  
1334 on the face of the notice; and shall record the notice. The

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1335 clerk shall receive the same fee as prescribed in s. 713.24 ~~s.~~  
 1336 ~~713.24(1)~~ for certifying to a transfer of lien.

1337 (4) The provisions of s. 713.24(7) ~~s. 713.24(3)~~ shall apply  
 1338 to bonds under this section.

1339 Section 11. Section 713.24, Florida Statutes, is amended to  
 1340 read:

1341 713.24 Transfer of liens to security.—

1342 (1) A ~~Any~~ lien claimed under this part may be transferred,  
 1343 by a ~~any~~ person having an interest in the real property upon  
 1344 which the lien is imposed or the contract under which the lien  
 1345 is claimed, from such real property to other security by ~~either~~:

1346 (a) Depositing in the clerk's office a sum of money; or

1347 (b) Filing in the clerk's office a bond executed as surety  
 1348 by a surety insurer licensed to do business in this state. or

1349 (2) The security must either to be in an amount equal: to

1350 (a) The amount demanded in the ~~such~~ claim of lien; or

1351 (b) Interest on the claim ~~thereon~~ at the legal rate for 3  
 1352 years, plus \$1,000 or 25 percent of the amount demanded in the  
 1353 claim of lien, whichever is greater, to apply on any attorney's  
 1354 fees and court costs that may be taxed in any proceeding to  
 1355 enforce the ~~said~~ lien.

1356 (3) The security ~~Such deposit or bond~~ shall be conditioned  
 1357 to pay any judgment or decree ~~that~~ which may be rendered for the  
 1358 satisfaction of the lien ~~for which such claim of lien was~~  
 1359 recorded.

1360 (4) A ~~Upon making such deposit or filing such bond,~~ the  
 1361 clerk who receives other security for a lien:

1362 (a) Shall make and record a certificate showing the  
 1363 transfer of the lien from the real property to the security. The

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1364 clerk ~~and~~ shall serve mail a copy of the certificate and a copy  
1365 of the bond, if the lien was transferred to a bond, on thereof  
1366 ~~by registered or certified mail to~~ the lienor named in the claim  
1367 of lien ~~so transferred,~~ at the address stated in the claim  
1368 ~~therein. When~~ Upon filing the certificate of transfer is  
1369 recorded, the real property is ~~shall thereupon be~~ released from  
1370 the lien claimed, and the such lien is ~~shall be~~ transferred to  
1371 the other ~~said~~ security.

1372 (b) May collect a service charge of no more than \$20 for  
1373 making and serving the certificate. The clerk may collect an  
1374 additional charge of no more than \$10 for each additional lien  
1375 transferred to the security. The clerk shall receive the  
1376 statutory service charges as prescribed in s. 28.24 for  
1377 recording the certificate and approving the bond.

1378 (5) In the absence of allegations of privity between the  
1379 lienor and the owner, and subject to any order of the court  
1380 increasing the amount required for the lien transfer deposit or  
1381 bond, no other judgment or decree to pay money may be entered by  
1382 the court against the owner. ~~The clerk shall be entitled to a~~  
1383 ~~service charge for making and serving the certificate, in the~~  
1384 ~~amount of up to \$20. If the transaction involves the transfer of~~  
1385 ~~multiple liens, an additional charge of up to \$10 for each~~  
1386 ~~additional lien shall be charged. For recording the certificate~~  
1387 ~~and approving the bond, the clerk shall receive her or his usual~~  
1388 ~~statutory service charges as prescribed in s. 28.24. Any number~~  
1389 ~~of liens may be transferred to one such security.~~

1390 (6) ~~(2)~~ Any excess of the security over the aggregate amount  
1391 of any judgments or decrees rendered plus costs actually taxed  
1392 shall be repaid to the party filing the same or her or his



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1393 successor in interest. Any deposit of money shall be considered  
1394 as paid into court and is ~~shall be~~ subject to the provisions of  
1395 law relative to payments of money into court and the disposition  
1396 of same.

1397 (7)~~(3)~~ Any party having an interest in such security or the  
1398 property from which the lien was transferred may at any time,  
1399 and any number of times, file a complaint in chancery in the  
1400 circuit court of the county where such security is deposited, or  
1401 file a motion in a pending action to enforce a lien, for an  
1402 order to require additional security, reduction of security,  
1403 change or substitution of sureties, payment of discharge  
1404 thereof, or any other matter affecting the ~~said~~ security. If the  
1405 court finds that the amount of the deposit or bond in excess of  
1406 the amount claimed in the claim of lien is insufficient to pay  
1407 the lienor's attorney's fees and court costs incurred in the  
1408 action to enforce the lien, the court must increase the amount  
1409 of the cash deposit or lien transfer bond. ~~Nothing in This~~  
1410 section does not ~~shall be construed to~~ vest exclusive  
1411 jurisdiction in the circuit courts over transfer bond claims for  
1412 nonpayment of an amount within the monetary jurisdiction of the  
1413 county courts.

1414 (8)~~(4)~~ If a proceeding to enforce a transferred lien is not  
1415 commenced within the time specified in s. 713.22 or if it  
1416 appears that the transferred lien has been satisfied of record,  
1417 the clerk shall return the ~~said~~ security upon request of the  
1418 person depositing or filing the same, or the insurer. If a  
1419 proceeding to enforce a lien is commenced in a court of  
1420 competent jurisdiction within the time specified in s. 713.22  
1421 and, during such proceeding, the lien is transferred pursuant to

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1422 this section or s. 713.13(1)(e), an action commenced within 1  
1423 year after the transfer, unless otherwise shortened by operation  
1424 of law, in the same county or circuit court to recover against  
1425 the security shall be deemed to have been brought as of the date  
1426 of filing the action to enforce the lien, and the court has  
1427 ~~shall have~~ jurisdiction over the action.

1428 Section 12. This act shall take effect October 1, 2010.