

20101048e1

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

20101048e1

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

20101048e1

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

20101048e1

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

20101048e1

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

20101048e1

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,

20101048e1

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

20101048e1

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 ~~No~~ action for
232 ~~the~~ labor, materials, or supplies may not be instituted against

20101048e1

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,~~

20101048e1

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).

20101048e1

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,

20101048e1

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,

20101048e1

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

20101048e1

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.

20101048e1

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.

410
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 _____

20101048e1

436 _____
437 ..(Signature of Property Owner).....(Date)...
438 ...(Signature of Property Owner).....(Date)...

439
440 Attached Statutory Form: Notice of Commencement

441
442 Additional information regarding license and insurance
443 requirements for contractors can be obtained online at
444 www.myflorida.com/dbpr/pro/cilb.

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

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

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

457 Section 3. Paragraph (c) of subsection (2) of section
458 713.06, Florida Statutes, is amended to read:

459 713.06 Liens of persons not in privity; proper payments.—

460 (2)

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

464

20101048e1

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

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

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

481 NOTICE TO OWNER

482
483 To ...(Owner's name and address)...

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

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

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

20101048e1

523 Section 4. Section 713.13, Florida Statutes, is amended to
524 read:

525 713.13 Notice of commencement.—

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

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

543 2. A general description of the improvement.

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

547 4. The name and address of the contractor.

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

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

20101048e1

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

583 2. General description of improvement:.....

584 3. Owner information:.....

585 a. Name and address:.....

586 b. Interest in property:.....

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

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

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

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

593 a. Name and address:.....

594 b. Phone number:.....

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

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

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

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

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

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

606 b. Phone number of person or entity designated by
607 owner:.....

608 9. Expiration date of notice of commencement (the
609 expiration date is 1 year from the date of recording unless a

20101048e1

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

611

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

623

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

627

628 ... (Signature of Owner or Owner's Authorized
629 Officer/Director/Partner/Manager) ...

630

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

632

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

637

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

20101048e1

639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667

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

Personally Known OR Produced Identification

Type of Identification Produced.....

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

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

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

(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.

20101048e1

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

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

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

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

682 (5) (a) A notice of commencement that is recorded within the
683 effective period may be amended to extend the effective period,
684 change erroneous information in the original notice⁷ or add
685 information that was omitted from the original notice. However,
686 in order to change contractors, a new notice of commencement or
687 notice of recommencement must be executed and recorded.

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

694 (6) Unless otherwise provided in the notice of commencement
695 or a new or amended notice of commencement, a notice of
696 commencement is not effectual in law or equity against a

20101048e1

697 conveyance, transfer, or mortgage of or lien on the real
698 property described in the notice, or against creditors or
699 subsequent purchasers for a valuable consideration, after 1 year
700 after the date of recording the notice of commencement.

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

716 Section 5. Section 713.135, Florida Statutes, is amended to
717 read:

718 713.135 Notice of commencement and applicability of lien.—

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

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

20101048e1

726 unless the signed document is in the file.

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

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

20101048e1

755 ~~fails to furnish the owner with a notice as provided in s.~~
756 ~~713.06(2) and an explanation of the owner's rights as provided~~
757 ~~in s. 713.22. The authority that issues the building permit must~~
758 ~~obtain from the Department of Business and Professional~~
759 ~~Regulation the statement required by this paragraph and must~~
760 ~~mail, deliver by electronic mail or other electronic format or~~
761 ~~facsimile, or personally deliver that statement to the owner or,~~
762 ~~in a case in which the owner is required to personally appear to~~
763 ~~obtain the permit, provide that statement to any owner making~~
764 ~~improvements to real property consisting of a single or multiple~~
765 ~~family dwelling up to and including four units. However, the~~
766 ~~failure by the authorities to provide the summary does not~~
767 ~~subject the issuing authority to liability.~~

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

775 ~~(d) Furnish to the applicant two or more copies of a form~~
776 ~~of notice of commencement conforming with s. 713.13. If the~~
777 ~~direct contract is greater than \$2,500, the applicant shall file~~
778 ~~with the issuing authority prior to the first inspection either~~
779 ~~a certified copy of the recorded notice of commencement or a~~
780 ~~notarized statement that the notice of commencement has been~~
781 ~~filed for recording, along with a copy thereof. In the absence~~
782 ~~of the filing of a certified copy of the recorded notice of~~
783 ~~commencement, the issuing authority or a private provider~~

20101048e1

784 ~~performing inspection services may not perform or approve~~
785 ~~subsequent inspections until the applicant files by mail,~~
786 ~~facsimile, hand delivery, or any other means such certified copy~~
787 ~~with the issuing authority. The certified copy of the notice of~~
788 ~~commencement must contain the name and address of the owner, the~~
789 ~~name and address of the contractor, and the location or address~~
790 ~~of the property being improved. The issuing authority shall~~

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

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

20101048e1

813 (f)~~(e)~~ Not require that a notice of commencement be
814 recorded as a condition of the application for, or processing or
815 issuance of, a building permit. ~~However, this paragraph does not~~
816 ~~modify or waive the inspection requirements set forth in this~~
817 ~~subsection.~~

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

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

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

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

20101048e1

842 ~~(including that of ownership of stock of a corporate landowner)~~
 843 ~~of the real property to be improved is engaged in the business~~
 844 ~~of construction of buildings for sale to others and intends to~~
 845 ~~make the improvements authorized by the permit on the property~~
 846 ~~and upon completion will offer the improved real property for~~
 847 ~~sale.~~

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

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

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

853 (c) A description sufficient to identify the real property
 854 to be improved; and

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

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

861
 862 Tax Folio No.....

863 BUILDING PERMIT APPLICATION

864

865 Owner's Name.....

866 Owner's Address.....

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

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

869 City.....

870 State..... Zip.....

20101048e1

871 Contractor's Name.....

872 Contractor's Address.....

873 City.....

874 State..... Zip.....

875 Job Name.....

876 Job Address.....

877 City..... County.....

878 Legal Description.....

879 Bonding Company.....

880 Bonding Company Address.....

881 City..... State.....

882 Architect/Engineer's Name.....

883 Architect/Engineer's Address.....

884 Mortgage Lender's Name.....

885 Mortgage Lender's Address.....

886

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

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

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

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

891 laws regulating construction in this jurisdiction. I understand

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

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

894 TANKS, and AIR CONDITIONERS, etc.

895

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

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

898 all applicable laws regulating construction and zoning.

899

20101048e1

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

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

910
911 ... (Signature of Owner or Agent) ...

912
913 ... (including contractor) ...

914 STATE OF FLORIDA
915 COUNTY OF

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

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

923
924 Personally Known OR Produced Identification

925
926 Type of Identification Produced.....

927 ... (Signature of Contractor) ...
928

20101048e1

929 STATE OF FLORIDA

930 COUNTY OF

931

932 Sworn to (or affirmed) and subscribed before me this
933 day of, ... (year) ..., by ... (name of person making
934 statement)....

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

937

938 Personally Known OR Produced Identification

939

940 Type of Identification Produced.....

941 (Certificate of Competency Holder)

942

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

944

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

946

947 APPLICATION APPROVED BY

948Permit Officer

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

20101048e1

958
959 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of
960 perjury, I declare that all the information contained in this
961 building permit application is true and correct.

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

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

972 Section 6. Section 713.137, Florida Statutes, is created to
973 read:

974 713.137 Prerequisites to inspection of improvements;
975 exceptions.—

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

979 (a) The following documents have been filed with the
980 issuing authority:

981 1.a. A certified copy of the recorded notice of
982 commencement; or

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

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

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

20101048e1

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

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

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

995 (2) This section does not apply to inspections of the
996 following improvements:

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

1000 (b) Improvements pursuant to a direct contract in an amount
1001 of \$5,000 or less.

1002 (c) The repair or replacement of a heating or air-
1003 conditioning system pursuant to a direct contract in an amount
1004 of \$7,500 or less.

1005 Section 7. Section 713.16, Florida Statutes, is amended to
1006 read:

1007 713.16 Demand for copy of contract and statements of
1008 account; form.—

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

20101048e1

1016 due or to become due if fixed or ascertainable under such
1017 contract, any person who suffers any detriment thereby has a
1018 cause of action against the person refusing or neglecting to
1019 furnish the same or willfully and falsely stating the amount due
1020 or to become due for his or her damages sustained thereby. The
1021 information contained in such copy or statement furnished
1022 pursuant to such written demand is binding upon the owner or
1023 lienor furnishing it unless actual notice of any modification is
1024 given to the person demanding the copy or statement before such
1025 person acts in good faith in reliance on it. The person
1026 demanding such documents must pay for the reproduction thereof;
1027 and, if such person fails or refuses to do so, he or she is
1028 entitled only to inspect such documents at reasonable times and
1029 places.

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

20101048e1

1045 the lienor or directed to the attention of the person designated
1046 to receive the demand in the notice to owner. The failure or
1047 refusal to furnish the statement under oath within 30 days after
1048 the demand, or the furnishing of a false or fraudulent
1049 statement, deprives the person so failing or refusing to furnish
1050 such statement of his or her lien. If the owner serves more than
1051 one demand for statement of account on a lienor and none of the
1052 information regarding the account has changed since the lienor's
1053 last response to a demand, the failure or refusal to furnish
1054 such statement does not deprive the lienor of his or her lien.
1055 The negligent inclusion or omission of any information deprives
1056 the person of his or her lien to the extent the owner can
1057 demonstrate prejudice from such act or omission by the lienor.
1058 The failure to furnish a response to a demand for statement of
1059 account does not affect the validity of any claim of lien being
1060 enforced through a foreclosure case filed prior to the date the
1061 demand for statement is received by the lienor.

1062 (3) A request for sworn statement of account must be in
1063 substantially the following form:

1064 REQUEST FOR SWORN STATEMENT OF ACCOUNT

1065
1066 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT, SIGNED
1067 UNDER OATH, WITHIN 30 DAYS OR THE FURNISHING OF A FALSE
1068 STATEMENT WILL RESULT IN THE LOSS OF YOUR LIEN.

1069
1070 To: ...(Lienor's name and address)...

1071
1072 The undersigned hereby demands a written statement under oath of
1073 his or her account showing the nature of the labor or services

20101048e1

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

20101048e1

1103 lienor's notice to contractor, sufficient for the lienor to
1104 properly identify the account in question. The failure to
1105 furnish the statement within 30 days after the demand, or the
1106 furnishing of a false or fraudulent statement, deprives the
1107 person who fails to furnish the statement, or who furnishes the
1108 false or fraudulent statement, of his or her rights under the
1109 bond. If the contractor serves more than one demand for
1110 statement of account on a lienor and none of the information
1111 regarding the account has changed since the lienor's last
1112 response to a demand, the failure or refusal to furnish such
1113 statement does not deprive the lienor of his or her rights under
1114 the bond. The negligent inclusion or omission of any information
1115 deprives the person of his or her rights under the bond to the
1116 extent the contractor can demonstrate prejudice from such act or
1117 omission by the lienor. The failure to furnish a response to a
1118 demand for statement of account does not affect the validity of
1119 any claim on the bond being enforced in a lawsuit filed prior to
1120 the date the demand for statement of account is received by the
1121 lienor.

1122 (5) (a) Any lienor who submits or mails ~~has recorded~~ a claim
1123 of lien to the clerk for recording may make written demand on
1124 the owner for a written statement under oath showing:

1125 1. The amount of the direct contract under which the lien
1126 was recorded;

1127 2. The dates and amounts paid or to be paid by or on behalf
1128 of the owner for all improvements described in the direct
1129 contract;

1130 3. The reasonable estimated costs of completing the direct
1131 contract under which the lien was claimed pursuant to the scope

20101048e1

1132 of the direct contract; and

1133 4. If known, the actual cost of completion.

1134 (b) Any owner who does not provide the statement within 30
1135 days after demand, or who provides a false or fraudulent
1136 statement, is not a prevailing party for purposes of an award of
1137 attorney's fees under s. 713.29. The written demand must include
1138 the following warning in conspicuous type in substantially the
1139 following form:

1140 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT
1141 WITHIN 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL
1142 RESULT IN THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY
1143 ACTION TO ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING
1144 THIS STATEMENT.

1145 (6) Any written demand served on the owner shall include a
1146 description of the project, including the names of the
1147 contractor and the lienor's customer as set forth in the
1148 lienor's notice to owner, sufficient for the owner to properly
1149 identify the project in question.

1150 (7)~~(6)~~ For purposes of this section, the term "information"
1151 means the nature and quantity of the labor, services, and
1152 materials furnished or to be furnished by a lienor and the
1153 amount paid, the amount due, and the amount to become due on the
1154 lienor's account.

1155 Section 8. Section 713.18, Florida Statutes, is amended to
1156 read:

1157 713.18 Manner of serving notices and other instruments.—

1158 (1) Service of notices, claims of lien, affidavits,
1159 assignments, and other instruments permitted or required under
1160 this part, or copies thereof when so permitted or required,

20101048e1

1161 unless otherwise specifically provided in this part, must be
1162 made by one of the following methods:

1163 (a) By actual delivery to the person to be served; if a
1164 partnership, to one of the partners; if a corporation, to an
1165 officer, director, managing agent, or business agent; or, if a
1166 limited liability company, to a member or manager.

1167 (b) By sending the same by common carrier delivery service
1168 or registered, global express guaranteed, or certified mail,
1169 with postage prepaid, and ~~or by overnight or second-day delivery~~
1170 with evidence of delivery, which may be in an electronic format.

1171 ~~(c) If the method specified in paragraph (a) or paragraph~~
1172 ~~(b) cannot be accomplished,~~ By posting on the site of the
1173 improvement if service as provided by paragraph (a) or paragraph
1174 (b) cannot be accomplished premises.

1175 (2) Notwithstanding subsection (1), service of ~~if~~ a notice
1176 to owner, a notice to contractor under s. 713.23, or a
1177 preliminary notice under s. 255.05 is ~~mailed by registered or~~
1178 ~~certified mail with postage prepaid to the person to be served~~
1179 ~~at any of the addresses set forth in subsection (3) within 40~~
1180 ~~days after the date the lienor first furnishes labor, services,~~
1181 ~~or materials, service of that notice is~~ effective as of the date
1182 of mailing if:

1183 (a) The notice is mailed by registered, global express
1184 guaranteed, or certified mail, with postage prepaid, to the
1185 person to be served at any of the addresses set forth in
1186 subsection (3);

1187 (b) The notice is mailed within 40 days after the date the
1188 lienor first furnishes labor, services, or materials; and

1189 (c) 1. The person who served the notice maintains a

20101048e1

1190 registered or certified mail log that shows the registered or
1191 certified mail number issued by the United States Postal
1192 Service, the name and address of the person served, and the date
1193 stamp of the United States Postal Service confirming the date of
1194 mailing; or ~~if~~

1195 2. The person who served the notice maintains electronic
1196 tracking records generated through use of the United States
1197 Postal Service Confirm service or a similar service containing
1198 the postal tracking number, the name and address of the person
1199 served, and verification of the date of receipt by the United
1200 States Postal Service.

1201 (3) (a) Service of ~~If~~ an instrument ~~served~~ pursuant to this
1202 section is effective on the date of mailing if the instrument:

1203 1. Was sent to the last address shown in the notice of
1204 commencement or any amendment thereto or, in the absence of a
1205 notice of commencement, to the last address shown in the
1206 building permit application, or to the last known address of the
1207 person to be served; ~~and, is not received, but~~

1208 2. Is returned as being "refused," "moved, not
1209 forwardable," or "unclaimed," or is otherwise not delivered or
1210 deliverable through no fault of the person serving the item, ~~then service is effective on the date the instrument was sent.~~

1212 (b) If the address information shown in the notice of
1213 commencement or any amendment to the notice, or in the absence
1214 of a notice of commencement, in the building permit application,
1215 is incomplete for purposes of mailing or delivery, the person
1216 serving the item may complete the address and properly format it
1217 according to United States Postal Service addressing standards
1218 using information obtained from the property appraiser or

20101048e1

1219 another public record or directory without affecting the
1220 validity of service under this section.

1221 (4) A notice served by a lienor on one owner or one partner
1222 of a partnership owning the real property ~~If the real property~~
1223 ~~is owned by more than one person or a partnership, a lienor may~~
1224 ~~serve any notices or other papers under this part on any one of~~
1225 ~~such owners or partners, and such notice is deemed notice to all~~
1226 owners and partners.

1227 Section 9. Section 713.22, Florida Statutes, is amended to
1228 read:

1229 713.22 Duration of lien.—

1230 (1) A ~~No~~ lien provided by this part may not ~~shall~~ continue
1231 for a longer period than 1 year after the claim of lien has been
1232 recorded or 1 year after the recording of an amended claim of
1233 lien that shows a later date of final furnishing of labor,
1234 services, or materials, unless within that time an action to
1235 enforce the lien is commenced in a court of competent
1236 jurisdiction. A lien that has been continued beyond the 1-year
1237 period ~~The continuation of the lien effected by the commencement~~
1238 of an ~~the~~ action is ~~shall~~ not enforceable ~~be good~~ against
1239 creditors or subsequent purchasers for a valuable consideration
1240 and without notice, unless a notice of lis pendens is recorded.

1241 (2) An owner or the owner's agent or attorney may elect to
1242 shorten the time prescribed in subsection (1) within which to
1243 commence an action to enforce any claim of lien or claim against
1244 a bond or other security under s. 713.23 or s. 713.24 by
1245 recording in the clerk's office a notice in substantially the
1246 following form:

1247 NOTICE OF CONTEST OF LIEN

20101048e1

1248 To: ...(Name and address of lienor)...

1249 You are notified that the undersigned contests the claim of lien

1250 filed by you on, ...(year)..., and recorded in Book

1251, Page, of the public records of County, Florida,

1252 and that the time within which you may file suit to enforce your

1253 lien is limited to 60 days from the date of service of this

1254 notice. This day of, ...(year).....

1255 Signed: ...(Owner or Attorney)...

1256

1257 The lien of any lienor upon whom such notice is served and who

1258 fails to institute a suit to enforce his or her lien within 60

1259 days after service of such notice shall be extinguished

1260 automatically. The clerk shall mail a copy of the notice of

1261 contest to the lien claimant at the address shown in the claim

1262 of lien or most recent amendment thereto, by certified or

1263 registered mail, return receipt requested, and shall certify to

1264 such service on the face of such notice and record the notice.

1265 ~~Service shall be deemed complete upon mailing.~~

1266 Section 10. Paragraph (e) of subsection (1) and subsections

1267 (2) and (4) of section 713.23, Florida Statutes, are amended to

1268 read:

1269 713.23 Payment bond.—

1270 (1)

1271 (e) An ~~No~~ action for the labor or materials or supplies may

1272 not be instituted or prosecuted against the contractor or surety

1273 unless both notices have been given. An ~~No~~ action may not ~~shall~~

1274 be instituted or prosecuted against the contractor or against

1275 the surety on the bond under this section after 1 year from the

1276 performance of the labor or completion of delivery of the

20101048e1

1277 materials and supplies. The time period for bringing an action
1278 against the contractor or surety on the bond shall be measured
1279 from the last day of furnishing labor, services, or materials by
1280 the lienor. The time period may ~~and shall~~ not be measured by
1281 other standards, such as the issuance of a certificate of
1282 occupancy or the issuance of a certificate of substantial
1283 completion. A contractor or the contractor's agent or attorney
1284 may elect to shorten the ~~prescribed~~ time within which an action
1285 to enforce any claim against a payment bond ~~provided~~ under this
1286 section or s. 713.245 must ~~may~~ be commenced at any time after a
1287 notice of nonpayment, if required, has been served for the claim
1288 by recording in the clerk's office a notice in substantially the
1289 following form:

1290 NOTICE OF CONTEST OF CLAIM
1291 AGAINST PAYMENT BOND

1292 To: ...(Name and address of lienor)...

1293 You are notified that the undersigned contests your notice
1294 of nonpayment, dated,, and served on the undersigned
1295 on,, and that the time within which you may file suit
1296 to enforce your claim is limited to 60 days from the date of
1297 service of this notice.

1298
1299 DATED on,

1300
1301 Signed: ...(Contractor or Attorney)...

1302
1303 The claim of any lienor upon whom the notice is served and who
1304 fails to institute a suit to enforce his or her claim against
1305 the payment bond within 60 days after service of the notice

20101048e1

1306 shall be extinguished automatically. The clerk shall mail a copy
1307 of the notice of contest to the lienor at the address shown in
1308 the notice of nonpayment or most recent amendment thereto, by
1309 certified or registered mail, return receipt requested, and
1310 shall certify to such service on the face of the notice and
1311 record the notice. ~~Service is complete upon mailing.~~

1312 (2) The bond shall secure every lien under the direct
1313 contract accruing subsequent to its execution and delivery,
1314 except that of the contractor. Every claim of lien, except that
1315 of the contractor, filed subsequent to execution and delivery of
1316 the bond shall be transferred to it with the same effect as
1317 liens transferred under s. 713.24. Record notice of the transfer
1318 shall be effected by the contractor, or any person having an
1319 interest in the property against which the claim of lien has
1320 been asserted, by recording in the clerk's office a notice in
1321 substantially the following form:

NOTICE OF BOND

1322
1323
1324 To ...(Name and Address of Lienor)...

1325
1326 You are notified that the claim of lien filed by you on,
1327, and recorded in Official Records Book at page of
1328 the public records of County, Florida, is secured by a
1329 bond, a copy being attached.

1330
1331 Signed: ...(Name of person recording notice)...

1332
1333 The notice shall be verified. The clerk shall mail a copy of the
1334 notice to the lienor at the address shown in the claim of lien,

20101048e1

1335 or the most recent amendment to it; shall certify to the service
 1336 on the face of the notice; and shall record the notice. The
 1337 clerk shall receive the same fee as prescribed in s. 713.24 ~~s.~~
 1338 ~~713.24(1)~~ for certifying to a transfer of lien.

1339 (4) The provisions of s. 713.24(7) ~~s. 713.24(3)~~ shall apply
 1340 to bonds under this section.

1341 Section 11. Section 713.24, Florida Statutes, is amended to
 1342 read:

1343 713.24 Transfer of liens to security.—

1344 (1) A ~~Any~~ lien claimed under this part may be transferred,
 1345 by a ~~any~~ person having an interest in the real property upon
 1346 which the lien is imposed or the contract under which the lien
 1347 is claimed, from such real property to other security by ~~either~~:

- 1348 (a) Depositing in the clerk's office a sum of money; ; or
 1349 (b) Filing in the clerk's office a bond executed as surety
 1350 by a surety insurer licensed to do business in this state. ;

1351 (2) The security must either to be in an amount equal: to

- 1352 (a) The amount demanded in the such claim of lien; ; plus
 1353 (b) Interest on the claim thereon at the legal rate for 3
 1354 years, plus \$1,000 or 25 percent of the amount demanded in the
 1355 claim of lien, whichever is greater, to apply on any attorney's
 1356 fees and court costs that may be taxed in any proceeding to
 1357 enforce the said lien.

1358 (3) The security ~~Such deposit or bond~~ shall be conditioned
 1359 to pay any judgment or decree that ~~which~~ may be rendered for the
 1360 satisfaction of the lien ~~for which such claim of lien was~~
 1361 ~~recorded~~.

1362 (4) A ~~Upon making such deposit or filing such bond,~~ the
 1363 clerk who receives other security for a lien:

20101048e1

1364 (a) Shall make and record a certificate showing the
1365 transfer of the lien from the real property to the security. The
1366 clerk and shall serve mail a copy of the certificate and a copy
1367 of the bond, if the lien was transferred to a bond, on thereof
1368 ~~by registered or certified mail to the lienor named in the claim~~
1369 ~~of lien so transferred,~~ at the address stated in the claim
1370 ~~therein.~~ When ~~Upon filing~~ the certificate of transfer is
1371 recorded, the real property is ~~shall thereupon be~~ released from
1372 the lien claimed, and the such lien is ~~shall be~~ transferred to
1373 the other said security.

1374 (b) May collect a service charge of no more than \$20 for
1375 making and serving the certificate. The clerk may collect an
1376 additional charge of no more than \$10 for each additional lien
1377 transferred to the security. The clerk shall receive the
1378 statutory service charges as prescribed in s. 28.24 for
1379 recording the certificate and approving the bond.

1380 (5) In the absence of allegations of privity between the
1381 lienor and the owner, and subject to any order of the court
1382 increasing the amount required for the lien transfer deposit or
1383 bond, no other judgment or decree to pay money may be entered by
1384 the court against the owner. ~~The clerk shall be entitled to a~~
1385 ~~service charge for making and serving the certificate, in the~~
1386 ~~amount of up to \$20. If the transaction involves the transfer of~~
1387 ~~multiple liens, an additional charge of up to \$10 for each~~
1388 ~~additional lien shall be charged. For recording the certificate~~
1389 ~~and approving the bond, the clerk shall receive her or his usual~~
1390 ~~statutory service charges as prescribed in s. 28.24. Any number~~
1391 ~~of liens may be transferred to one such security.~~

1392 (6) ~~(2)~~ Any excess of the security over the aggregate amount

20101048e1

1393 of any judgments or decrees rendered plus costs actually taxed
1394 shall be repaid to the party filing the same or her or his
1395 successor in interest. Any deposit of money shall be considered
1396 as paid into court and is ~~shall be~~ subject to the provisions of
1397 law relative to payments of money into court and the disposition
1398 of same.

1399 (7)~~(3)~~ Any party having an interest in such security or the
1400 property from which the lien was transferred may at any time,
1401 and any number of times, file a complaint in chancery in the
1402 circuit court of the county where such security is deposited, or
1403 file a motion in a pending action to enforce a lien, for an
1404 order to require additional security, reduction of security,
1405 change or substitution of sureties, payment of discharge
1406 thereof, or any other matter affecting the ~~said~~ security. If the
1407 court finds that the amount of the deposit or bond in excess of
1408 the amount claimed in the claim of lien is insufficient to pay
1409 the lienor's attorney's fees and court costs incurred in the
1410 action to enforce the lien, the court must increase the amount
1411 of the cash deposit or lien transfer bond. ~~Nothing in This~~
1412 section does not ~~shall be construed to~~ vest exclusive
1413 jurisdiction in the circuit courts over transfer bond claims for
1414 nonpayment of an amount within the monetary jurisdiction of the
1415 county courts.

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

20101048e1

1422 competent jurisdiction within the time specified in s. 713.22
1423 and, during such proceeding, the lien is transferred pursuant to
1424 this section or s. 713.13(1)(e), an action commenced within 1
1425 year after the transfer, unless otherwise shortened by operation
1426 of law, in the same county or circuit court to recover against
1427 the security shall be deemed to have been brought as of the date
1428 of filing the action to enforce the lien, and the court has
1429 ~~shall have~~ jurisdiction over the action.

1430 Section 12. This act shall take effect October 1, 2010.