

By the Committee on Judiciary; and Senator Bogdanoff

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1 A bill to be entitled
2 An act relating to construction liens and bonds;
3 amending s. 95.11, F.S.; adding a cross-reference;
4 deleting a provision for the limitation of actions
5 against a bond; amending s. 255.05, F.S.; requiring
6 that the bond number be stated on the first page of
7 the bond; providing that a provision in a payment bond
8 furnished for a public works contract that limits or
9 expands the effective duration of the bond or adds
10 conditions precedent is unenforceable; requiring a
11 contractor, or the contractor's attorney, to serve
12 rather than mail a notice of contest of claim against
13 the payment bond; providing additional time for
14 service when the bond is not recorded; specifying the
15 duration of the bond; providing that payment to a
16 contractor who has furnished a payment bond on a
17 public works project may not be conditioned upon
18 production of certain documents; providing
19 prerequisites for commencement of an action against a
20 payment bond; creating s. 255.0518, F.S.; requiring
21 that the state, a county, a municipality, or any other
22 public body or institution open sealed bids received
23 in response to a competitive solicitation at a public
24 meeting, announce the name of each bidder and the
25 price submitted, and make available upon request the
26 names of bidders and submitted prices; amending s.
27 713.10, F.S.; providing that a specified notice
28 concerning a lessor's liability for liens for
29 improvements made by the lessee prohibits liens even

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30 if other leases do not expressly prohibit liens or if
31 certain other provisions are not identical; amending
32 s. 713.13, F.S.; revising a notice form to clarify
33 that the notice of commencement expires 1 year after
34 the date of recording; removing a perjury clause;
35 providing additional time for service when a notice of
36 commencement is not recorded with a copy of the bond
37 attached; amending s. 713.132, F.S.; requiring notice
38 of termination to be served on lienors in privity with
39 the owner; amending s. 713.16, F.S.; revising
40 requirements for demands for a copy of a construction
41 contract and a statement of account; authorizing a
42 lienor to make certain written demands to an owner for
43 certain written statements; providing requirements for
44 such written demands; amending s. 713.18, F.S.;
45 providing additional methods by which certain items
46 may be served; revising provisions relating to when
47 service of specified items is effective; specifying
48 requirements for certain written instruments under
49 certain circumstances; amending s. 713.22, F.S.;
50 requiring that the clerk serve rather than mail a
51 notice of contest of lien; amending s. 713.23, F.S.;
52 revising the contents of a notice to contractor;
53 requiring that a contractor serve rather than mail a
54 notice of contest of claim against the payment bond
55 and a notice of bond; clarifying the attachment of the
56 bond to the notice; providing that a provision in a
57 payment bond that limits or expands the effective
58 duration of the bond or adds conditions precedent is

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unenforceable; clarifying applicability of certain provisions; providing an effective date.

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

Section 1. Subsections (2) and (5) of section 95.11, Florida Statutes, are amended to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(2) WITHIN FIVE YEARS.—

(a) An action on a judgment or decree of any court, not of record, of this state or any court of the United States, any other state or territory in the United States, or a foreign country.

(b) A legal or equitable action on a contract, obligation, or liability founded on a written instrument, except for an action to enforce a claim against a payment bond, ~~which shall be governed by the applicable provisions of s. ~~ss.~~ 255.05(10), s. 337.18(1), or s. and 713.23(1)(e).~~

(c) An action to foreclose a mortgage.

(d) An action alleging a willful violation of s. 448.110.

(e) Notwithstanding paragraph (b), an action for breach of a property insurance contract, with the period running from the date of loss.

(5) WITHIN ONE YEAR.—

(a) An action for specific performance of a contract.

(b) An action to enforce an equitable lien arising from the furnishing of labor, services, or material for the improvement

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88 of real property.

89 (c) An action to enforce rights under the Uniform
90 Commercial Code—Letters of Credit, chapter 675.

91 (d) An action against any guaranty association and its
92 insured, with the period running from the date of the deadline
93 for filing claims in the order of liquidation.

94 ~~(e) An action to enforce any claim against a payment bond~~
95 ~~on which the principal is a contractor, subcontractor, or sub-~~
96 ~~subcontractor as defined in s. 713.01, for private work as well~~
97 ~~as public work, from the last furnishing of labor, services, or~~
98 ~~materials or from the last furnishing of labor, services, or~~
99 ~~materials by the contractor if the contractor is the principal~~
100 ~~on a bond on the same construction project, whichever is later.~~

101 (e)~~(f)~~ Except for actions described in subsection (8), a
102 petition for extraordinary writ, other than a petition
103 challenging a criminal conviction, filed by or on behalf of a
104 prisoner as defined in s. 57.085.

105 (f)~~(g)~~ Except for actions described in subsection (8), an
106 action brought by or on behalf of a prisoner, as defined in s.
107 57.085, relating to the conditions of the prisoner's
108 confinement.

109 Section 2. Section 255.05, Florida Statutes, is amended to
110 read:

111 255.05 Bond of contractor constructing public buildings;
112 form; action by claimants ~~materialmen~~.-

113 (1) (a) A ~~Any~~ person entering into a formal contract with
114 the state or any county, city, or political subdivision thereof,
115 or other public authority or private entity, for the
116 construction of a public building, for the prosecution and

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117 completion of a public work, or for repairs upon a public
118 building or public work shall be required, before commencing the
119 work or before recommencing the work after a default or
120 abandonment, to execute, deliver to the public owner, and record
121 in the public records of the county where the improvement is
122 located, a payment and performance bond with a surety insurer
123 authorized to do business in this state as surety. A public
124 entity may not require a contractor to secure a surety bond
125 under this section from a specific agent or bonding company. The
126 bond must state on its front page: the name, principal business
127 address, and phone number of the contractor, the surety, the
128 owner of the property being improved, and, if different from the
129 owner, the contracting public entity; the contract number
130 assigned by the contracting public entity; the bond number
131 assigned by the surety; and a description of the project
132 sufficient to identify it, such as a legal description or the
133 street address of the property being improved, and a general
134 description of the improvement. The ~~Such~~ bond shall be
135 conditioned upon the contractor's performance of the
136 construction work in the time and manner prescribed in the
137 contract and promptly making payments to all persons defined in
138 s. 713.01 who furnish labor, services, or materials for the
139 prosecution of the work provided for in the contract. A ~~Any~~
140 claimant may apply to the governmental entity having charge of
141 the work for copies of the contract and bond and shall thereupon
142 be furnished with a certified copy of the contract and bond. The
143 claimant has ~~shall have~~ a right of action against the contractor
144 and surety for the amount due him or her, including unpaid
145 finance charges due under the claimant's contract. Such action

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146 may ~~shall~~ not involve the public authority in any expense. When
147 the ~~such~~ work is done for the state and the contract is for
148 \$100,000 or less, no payment and performance bond shall be
149 required. At the discretion of the official or board awarding
150 such contract when such work is done for any county, city,
151 political subdivision, or public authority, a ~~any~~ person
152 entering into such a contract that ~~which~~ is for \$200,000 or less
153 may be exempted from executing the payment and performance bond.
154 When such work is done for the state, the Secretary of
155 Management Services may delegate to state agencies the authority
156 to exempt any person entering into such a contract amounting to
157 more than \$100,000 but less than \$200,000 from executing the
158 payment and performance bond. If an ~~In the event such~~ exemption
159 is granted, the officer or official is ~~officials shall~~ not be
160 personally liable to persons suffering loss because of granting
161 such exemption. The Department of Management Services shall
162 maintain information on the number of requests by state agencies
163 for delegation of authority to waive the bond requirements by
164 agency and project number and whether any request for delegation
165 was denied and the justification for the denial. Any provision
166 in a payment bond furnished for public work contracts as
167 provided by this subsection which further restricts the classes
168 of persons ~~as defined in s. 713.01~~ protected by the bond, which
169 restricts ~~or~~ the venue of any proceeding relating to such bond,
170 which limits or expands the effective duration of the bond, or
171 which adds conditions precedent to the enforcement of a claim
172 against the bond beyond those provided in this section is
173 unenforceable.

174 (b) The Department of Management Services shall adopt rules

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175 with respect to all contracts for \$200,000 or less, to provide:

176 1. Procedures for retaining up to 10 percent of each
177 request for payment submitted by a contractor and procedures for
178 determining disbursements from the amount retained on a pro rata
179 basis to laborers, materialmen, and subcontractors, as defined
180 in s. 713.01.

181 2. Procedures for requiring certification from laborers,
182 materialmen, and subcontractors, as defined in s. 713.01, before
183 ~~prior to~~ final payment to the contractor that such laborers,
184 materialmen, and subcontractors have no claims against the
185 contractor resulting from the completion of the work provided
186 for in the contract.

187

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

191 (c)1. The amount of the bond shall equal the contract
192 price, except that for a contract in excess of \$250 million, if
193 the state, county, municipality, political subdivision, or other
194 public entity finds that a bond in the amount of the contract
195 price is not reasonably available, the public owner shall set
196 the amount of the bond at the largest amount reasonably
197 available, but not less than \$250 million.

198 2. For construction-management or design-build contracts,
199 if the public owner does not include in the bond amount the cost
200 of design or other nonconstruction services, the bond may not be
201 conditioned on performance of such services or payment to
202 persons furnishing such services. Notwithstanding paragraph (a),
203 such a bond may exclude persons furnishing such services from

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204 the classes of persons protected by the bond.

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

212
213 NOTICE OF CONTEST OF CLAIM
214 AGAINST PAYMENT BOND
215

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

217
218 You are notified that the undersigned contests your notice
219 of nonpayment, dated,, and served on the
220 undersigned on,, and that the time within
221 which you may file suit to enforce your claim is limited to 60
222 days after the date of service of this notice.

223
224 DATED on,

225
226 Signed: ...(Contractor or Attorney)...

227
228 The claim of a ~~any~~ claimant upon whom such notice is served and
229 who fails to institute a suit to enforce his or her claim
230 against the payment bond within 60 days after service of such
231 notice shall be extinguished automatically. The contractor or
232 the contractor's attorney ~~clerk~~ shall serve ~~mail~~ a copy of the

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233 notice of contest to the claimant at the address shown in the
234 notice of nonpayment or most recent amendment thereto and shall
235 certify to such service on the face of the ~~such~~ notice and
236 record the notice. ~~Service is complete upon mailing.~~

237 2. A claimant, except a laborer, who is not in privity with
238 the contractor shall, before commencing or not later than 45
239 days after commencing to furnish labor, services, or materials
240 for the prosecution of the work, furnish the contractor with a
241 written notice that he or she intends to look to the bond for
242 protection. A claimant who is not in privity with the contractor
243 and who has not received payment for his or her labor, services,
244 or materials shall deliver to the contractor and to the surety
245 written notice of the performance of the labor or delivery of
246 the materials or supplies and of the nonpayment. The notice of
247 nonpayment shall ~~may~~ be served ~~at any time~~ during the progress
248 of the work or thereafter but may not be served earlier than
249 ~~before~~ 45 days after the first furnishing of labor, services, or
250 materials or, and not later than 90 days after the final
251 furnishing of the labor, services, or materials by the claimant
252 or, with respect to rental equipment, not later than 90 days
253 after the date that the rental equipment was last on the job
254 site available for use. Any notice of nonpayment served by a
255 claimant who is not in privity with the contractor which
256 includes sums for retainage must specify the portion of the
257 amount claimed for retainage. An ~~No~~ action for the labor,
258 materials, or supplies may not be instituted against the
259 contractor or the surety unless the notice to the contractor and
260 notice of nonpayment have been served, if required by this
261 section ~~both notices have been given.~~ If the payment bond is not

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262 recorded before commencement of construction, the time period
263 for the claimant to serve the required notices may at the option
264 of the claimant be calculated from the dates specified in this
265 section or from the date the claimant is served a copy of the
266 bond. However, the limitation period for commencement of an
267 action on the bond as established in subsection (10) may not be
268 expanded. Notices required or permitted under this section shall
269 ~~may~~ be served in accordance with s. 713.18. A claimant may not
270 waive in advance his or her right to bring an action under the
271 bond against the surety. In any action brought to enforce a
272 claim against a payment bond under this section, the prevailing
273 party is entitled to recover a reasonable fee for the services
274 of his or her attorney for trial and appeal or for arbitration,
275 in an amount to be determined by the court, which fee must be
276 taxed as part of the prevailing party's costs, as allowed in
277 equitable actions. The time periods for service of a notice of
278 nonpayment or for bringing an action against a contractor or a
279 surety shall be measured from the last day of furnishing labor,
280 services, or materials by the claimant and may ~~shall~~ not be
281 measured by other standards, such as the issuance of a
282 certificate of occupancy or the issuance of a certificate of
283 substantial completion.

284 (b) When a person is required to execute a waiver of his or
285 her right to make a claim against the payment bond in exchange
286 for, or to induce payment of, a progress payment, the waiver may
287 be in substantially the following form:

288
289 WAIVER OF RIGHT TO CLAIM
290 AGAINST THE PAYMENT BOND

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291 (PROGRESS PAYMENT)

292
293 The undersigned, in consideration of the sum of \$....,
294 hereby waives its right to claim against the payment bond for
295 labor, services, or materials furnished through ...(insert
296 date)... to ...(insert the name of your customer)... on the job
297 of ...(insert the name of the owner)..., for improvements to the
298 following described project:

299
300 (description of project)

301
302 This waiver does not cover any retention or any labor, services,
303 or materials furnished after the date specified.

304
305 DATED ON,

306 ... (Claimant)...

307 By:.....

308
309 (c) When a person is required to execute a waiver of his or
310 her right to make a claim against the payment bond, in exchange
311 for, or to induce payment of, the final payment, the waiver may
312 be in substantially the following form:

313
314 WAIVER OF RIGHT TO CLAIM
315 AGAINST THE PAYMENT BOND
316 (FINAL PAYMENT)

317
318 The undersigned, in consideration of the final payment in
319 the amount of \$...., hereby waives its right to claim against

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320 the payment bond for labor, services, or materials furnished to
321 ...(insert the name of your customer)... on the job of
322 ...(insert the name of the owner)..., for improvements to the
323 following described project:

324
325 (description of project)

326
327 DATED ON,

328 ... (Claimant)...

329 By:.....

330
331 (d) A person may not require a claimant to furnish a waiver
332 that is different from the forms in paragraphs (b) and (c).

333 (e) A claimant who executes a waiver in exchange for a
334 check may condition the waiver on payment of the check.

335 (f) A waiver that is not substantially similar to the forms
336 in this subsection is enforceable in accordance with its terms.

337 (3) The bond required in subsection (1) may be in
338 substantially the following form:

339
340 PUBLIC CONSTRUCTION BOND

341 Bond No....(enter bond number)...

342
343 BY THIS BOND, We, as Principal and, a
344 corporation, as Surety, are bound to, herein called Owner,
345 in the sum of \$....., for payment of which we bind ourselves, our
346 heirs, personal representatives, successors, and assigns,
347 jointly and severally.

348 THE CONDITION OF THIS BOND is that if Principal:

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349 1. Performs the contract dated,, between
350 Principal and Owner for construction of, the contract being
351 made a part of this bond by reference, at the times and in the
352 manner prescribed in the contract; and

353 2. Promptly makes payments to all claimants, as defined in
354 Section 255.05(1), Florida Statutes, supplying Principal with
355 labor, materials, or supplies, used directly or indirectly by
356 Principal in the prosecution of the work provided for in the
357 contract; and

358 3. Pays Owner all losses, damages, expenses, costs, and
359 attorney's fees, including appellate proceedings, that Owner
360 sustains because of a default by Principal under the contract;
361 and

362 4. Performs the guarantee of all work and materials
363 furnished under the contract for the time specified in the
364 contract, then this bond is void; otherwise it remains in full
365 force.

366
367 Any action instituted by a claimant under this bond for payment
368 must be in accordance with the notice and time limitation
369 provisions in Section 255.05(2), Florida Statutes.

370
371 Any changes in or under the contract documents and compliance or
372 noncompliance with any formalities connected with the contract
373 or the changes does not affect Surety's obligation under this
374 bond.

375
376 DATED ON,

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378 ... (Name of Principal)...

379 By ... (As Attorney in Fact)...

380 ... (Name of Surety)...

381
382 (4) The payment bond provisions of all bonds required by
383 subsection (1) shall be construed and deemed statutory payment
384 bonds furnished pursuant to this section and such bonds shall
385 not under any circumstances be converted into common law bonds.

386 (5) In addition to the provisions of chapter 47, any action
387 authorized under this section may be brought in the county in
388 which the public building or public work is being constructed or
389 repaired. This subsection shall not apply to an action
390 instituted prior to May 17, 1977.

391 (6) All payment bond forms used by a public owner and all
392 payment bonds executed pursuant to this section by a surety
393 shall make reference to this section by number and shall contain
394 reference to the notice and time limitation provisions in
395 subsection (2).

396 (7) In lieu of the bond required by this section, a
397 contractor may file with the state, county, city, or other
398 political authority an alternative form of security in the form
399 of cash, a money order, a certified check, a cashier's check, an
400 irrevocable letter of credit, or a security of a type listed in
401 part II of chapter 625. Any such alternative form of security
402 shall be for the same purpose and be subject to the same
403 conditions as those applicable to the bond required by this
404 section. The determination of the value of an alternative form
405 of security shall be made by the appropriate state, county,
406 city, or other political subdivision.

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407 (8) When a contractor has furnished a payment bond pursuant
408 to this section, he or she may, when the state, county,
409 municipality, political subdivision, or other public authority
410 makes any payment to the contractor or directly to a claimant,
411 serve a written demand on any claimant who is not in privity
412 with the contractor for a written statement under oath of his or
413 her account showing the nature of the labor or services
414 performed and to be performed, if any; the materials furnished;
415 the materials to be furnished, if known; the amount paid on
416 account to date; the amount due; and the amount to become due,
417 if known, as of the date of the statement by the claimant. Any
418 such demand to a claimant who is not in privity with the
419 contractor must be served on the claimant at the address and to
420 the attention of any person who is designated to receive the
421 demand in the notice to contractor served by the claimant. The
422 failure or refusal to furnish the statement does not deprive the
423 claimant of his or her rights under the bond if the demand is
424 not served at the address of the claimant or directed to the
425 attention of the person designated to receive the demand in the
426 notice to contractor. The failure to furnish the statement
427 within 30 days after the demand, or the furnishing of a false or
428 fraudulent statement, deprives the claimant who fails to furnish
429 the statement, or who furnishes the false or fraudulent
430 statement, of his or her rights under the bond. If the
431 contractor serves more than one demand for statement of account
432 on a claimant and none of the information regarding the account
433 has changed since the claimant's last response to a demand, the
434 failure or refusal to furnish such statement does not deprive
435 the claimant of his or her rights under the bond. The negligent

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436 inclusion or omission of any information deprives the claimant
437 of his or her rights under the bond to the extent that the
438 contractor can demonstrate prejudice from such act or omission
439 by the claimant. The failure to furnish a response to a demand
440 for statement of account does not affect the validity of any
441 claim on the bond being enforced in a lawsuit filed before the
442 date the demand for statement of account is received by the
443 claimant.

444 (9) On any public works project for which the public
445 authority requires a performance and payment bond, suits at law
446 and in equity may be brought and maintained by and against the
447 public authority on any contract claim arising from breach of an
448 express provision or an implied covenant of a written agreement
449 or a written directive issued by the public authority pursuant
450 to the written agreement. In any such suit, the public authority
451 and the contractor shall have all of the same rights and
452 obligations as a private person under a like contract except
453 that no liability may be based on an oral modification of either
454 the written contract or written directive. Nothing herein shall
455 be construed to waive the sovereign immunity of the state and
456 its political subdivisions from equitable claims and equitable
457 remedies. The provisions of this subsection shall apply only to
458 contracts entered into on or after July 1, 1999.

459 (10) An action, except an action for recovery of retainage,
460 must be instituted against the contractor or the surety on the
461 payment bond or the payment provisions of a combined payment and
462 performance bond within 1 year after the performance of the
463 labor or completion of delivery of the materials or supplies. An
464 action for recovery of retainage must be instituted against the

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465 contractor or the surety within 1 year after the performance of
466 the labor or completion of delivery of the materials or
467 supplies; however, such an action may not be instituted until
468 one of the following conditions is satisfied:

469 (a) The public entity has paid out the claimant's retainage
470 to the contractor, and the time provided under s. 218.735 or s.
471 255.073(3) for payment of that retainage to the claimant has
472 expired;

473 (b) The claimant has completed all work required under its
474 contract and 70 days have passed since the contractor sent its
475 final payment request to the public entity; or

476 (c) At least 160 days have passed since reaching
477 substantial completion of the construction services purchased,
478 as defined in the contract, or if not defined in the contract,
479 since reaching beneficial occupancy or use of the project.

480 (d) The claimant has asked the contractor, in writing, for
481 any of the following information and the contractor has failed
482 to respond to the claimant's request, in writing, within 10 days
483 after receipt of the request:

484 1. Whether the project has reached substantial completion,
485 as that term is defined in the contract, or if not defined in
486 the contract, if beneficial occupancy or use of the project has
487 occurred.

488 2. Whether the contractor has received payment of the
489 claimant's retainage, and if so, the date the retainage was
490 received by the contractor.

491 3. Whether the contractor has sent its final payment
492 request to the public entity, and if so, the date on which the
493 final payment request was sent.

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495 If none of the conditions described in paragraph (a), paragraph
496 (b), paragraph (c), or paragraph (d) is satisfied and an action
497 for recovery of retainage cannot be instituted within the 1-year
498 limitation period set forth in this subsection, this limitation
499 period shall be extended until 120 days after one of these
500 conditions is satisfied.

501 (11) When a contractor furnishes and records a payment and
502 performance bond for a public works project in accordance with
503 this section, the public authority may not condition its
504 payments to the contractor on the production of a release,
505 waiver, or like documentation from a claimant demonstrating that
506 the claimant does not have an outstanding claim against the
507 contractor, the surety, the payment bond, or the public
508 authority for payments due on labor, services, or materials
509 furnished on the public works project.

510 Section 3. Section 255.0518, Florida Statutes, is created
511 to read:

512 255.0518 Public bids; bid opening.—Notwithstanding s.
513 119.071(1)(b), the state or any county or municipality thereof
514 or any department or agency of the state, county, or
515 municipality or any other public body or institution, shall:

516 (1) Open sealed bids received pursuant to a competitive
517 solicitation for construction or repairs on a public building or
518 public work at a public meeting conducted in compliance with s.
519 286.011.

520 (2) Announce at that meeting the name of each bidder and
521 the price submitted.

522 (3) Make available upon request the name of each bidder and

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523 the price submitted.

524 Section 4. Paragraph (b) of subsection (2) of section
525 713.10, Florida Statutes, is amended to read:

526 713.10 Extent of liens.—

527 (2)

528 (b) The interest of the lessor is ~~shall~~ not ~~be~~ subject to
529 liens for improvements made by the lessee when:

530 1. The lease, or a short form or a memorandum of the lease
531 that contains the specific language in the lease prohibiting
532 such liability, is recorded in the official records of the
533 county where the premises are located before the recording of a
534 notice of commencement for improvements to the premises and the
535 terms of the lease expressly prohibit such liability; or

536 2. The terms of the lease expressly prohibit such
537 liability, and a notice advising that leases for the rental of
538 premises on a parcel of land prohibit such liability has been
539 recorded in the official records of the county in which the
540 parcel of land is located before the recording of a notice of
541 commencement for improvements to the premises, and the notice
542 includes the following:

543 a. The name of the lessor.

544 b. The legal description of the parcel of land to which the
545 notice applies.

546 c. The specific language contained in the various leases
547 prohibiting such liability.

548 d. A statement that all or a majority of the leases entered
549 into for premises on the parcel of land expressly prohibit such
550 liability.

551 3. The lessee is a mobile home owner who is leasing a

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552 mobile home lot in a mobile home park from the lessor.

553

554 A notice that is consistent with subparagraph 2. effectively
555 prohibits liens for improvements made by a lessee even if other
556 leases for premises on the parcel do not expressly prohibit
557 liens or if provisions of each lease restricting the application
558 of liens are not identical.

559 Section 5. Paragraphs (d) and (e) of subsection (1) of
560 section 713.13, Florida Statutes, are amended to read:

561 713.13 Notice of commencement.—

562 (1)

563 (d) A notice of commencement must be in substantially the
564 following form:

565

566 Permit No.....

Tax Folio No.....

567 NOTICE OF COMMENCEMENT

568 State of....

569 County of....

570

571 The undersigned hereby gives notice that improvement will be
572 made to certain real property, and in accordance with Chapter
573 713, Florida Statutes, the following information is provided in
574 this Notice of Commencement.

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

577 2. General description of improvement:.....

578 3. Owner information or Lessee information if the Lessee
579 contracted for the improvement:

580 a. Name and address:.....

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- 581 b. Interest in property:.....
- 582 c. Name and address of fee simple titleholder (if different
- 583 from Owner listed above):.....
- 584 4.a. Contractor: ...(name and address)....
- 585 b. Contractor's phone number:.....
- 586 5. Surety (if applicable, a copy of the payment bond is
- 587 attached):
- 588 a. Name and address:.....
- 589 b. Phone number:.....
- 590 c. Amount of bond: \$.....
- 591 6.a. Lender: ...(name and address)....
- 592 b. Lender's phone number:.....
- 593 7. Persons within the State of Florida designated by Owner
- 594 upon whom notices or other documents may be served as provided
- 595 by Section 713.13(1) (a)7., Florida Statutes:
- 596 a. Name and address:.....
- 597 b. Phone numbers of designated persons:.....
- 598 8.a. In addition to himself or herself, Owner designates
- 599 of to receive a copy of the Lienor's
- 600 Notice as provided in Section 713.13(1) (b), Florida Statutes.
- 601 b. Phone number of person or entity designated by
- 602 owner:.....
- 603 9. Expiration date of notice of commencement (the
- 604 expiration date ~~may not be before the completion of construction~~
- 605 ~~and final payment to the contractor, but~~ will be 1 year from the
- 606 date of recording unless a different date is specified).....

607

608 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE

609 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER

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610 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA
 611 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS
 612 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
 613 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU
 614 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN
 615 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF
 616 COMMENCEMENT.

617
 618 ~~Under penalty of perjury, I declare that I have read the~~
 619 ~~foregoing notice of commencement and that the facts stated~~
 620 ~~therein are true to the best of my knowledge and belief.~~

621
 622 ... (Signature of Owner or Lessee, or Owner's or Lessee's
 623 Authorized Officer/Director/Partner/Manager) ...

624
 625 ... (Signatory's Title/Office) ...

626
 627 The foregoing instrument was acknowledged before me this
 628 day of, ... (year) ..., by ... (name of person) ... as ... (type
 629 of authority, . . . e.g. officer, trustee, attorney in fact) ...
 630 for ... (name of party on behalf of whom instrument was
 631 executed)

632
 633 ... (Signature of Notary Public - State of Florida) ...

634
 635 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

636
 637 Personally Known OR Produced Identification

638

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639 Type of Identification Produced.....

640

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

645 713.02(6). However, if a payment bond under s. 713.23 exists but
 646 was not attached at the time of recordation of the notice of
 647 commencement, the bond may be used to transfer any recorded lien
 648 of a lienor except that of the contractor by the recordation and
 649 service of a notice of bond pursuant to s. 713.23(2). The notice
 650 requirements of s. 713.23 apply to any claim against the bond;
 651 however, the time limits for serving any required notices shall,
 652 at the option of the lienor, be calculated from the dates begin
 653 ~~running from the later of the time~~ specified in s. 713.23 or the
 654 date the notice of bond is served on the lienor.

655 Section 6. Subsections (1) and (4) of section 713.132,
 656 Florida Statutes, are amended to read:

657 713.132 Notice of termination.—

658 (1) An owner may terminate the period of effectiveness of a
 659 notice of commencement by executing, swearing to, and recording
 660 a notice of termination that contains:

661 (a) The same information as the notice of commencement;

662 (b) The recording office document book and page reference
 663 numbers and date of the notice of commencement;

664 (c) A statement of the date as of which the notice of
 665 commencement is terminated, which date may not be earlier than
 666 30 days after the notice of termination is recorded;

667 (d) A statement specifying that the notice applies to all

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668 the real property subject to the notice of commencement or
669 specifying the portion of such real property to which it
670 applies;

671 (e) A statement that all lienors have been paid in full;
672 and

673 (f) A statement that the owner has, before recording the
674 notice of termination, served a copy of the notice of
675 termination on the contractor and on each lienor who has a
676 direct contract with the owner or who has served a notice to
677 owner ~~given notice~~. The owner is not required to serve a copy of
678 the notice of termination on any lienor who has executed a
679 waiver and release of lien upon final payment in accordance with
680 s. 713.20.

681 (4) A notice of termination is effective to terminate the
682 notice of commencement at the later of 30 days after recording
683 of the notice of termination or the date stated in the notice of
684 termination as the date on which the notice of commencement is
685 terminated, if ~~provided that~~ the notice of termination has been
686 served pursuant to paragraph (1)(f) on the contractor and on
687 each lienor who has a direct contract with the owner or who has
688 served a notice to owner ~~given notice~~.

689 Section 7. Section 713.16, Florida Statutes, is amended to
690 read:

691 713.16 Demand for copy of contract and statements of
692 account; form.—

693 (1) A copy of the contract of a lienor or owner and a
694 statement of the amount due or to become due if fixed or
695 ascertainable thereon must be furnished by any party thereto,
696 upon written demand of an owner or a lienor contracting with or

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697 employed by the other party to such contract. If the owner or
698 lienor refuses or neglects to furnish such copy of the contract
699 or such statement, or willfully and falsely states the amount
700 due or to become due if fixed or ascertainable under such
701 contract, any person who suffers any detriment thereby has a
702 cause of action against the person refusing or neglecting to
703 furnish the same or willfully and falsely stating the amount due
704 or to become due for his or her damages sustained thereby. The
705 information contained in such copy or statement furnished
706 pursuant to such written demand is binding upon the owner or
707 lienor furnishing it unless actual notice of any modification is
708 given to the person demanding the copy or statement before such
709 person acts in good faith in reliance on it. The person
710 demanding such documents must pay for the reproduction thereof;
711 and, if such person fails or refuses to do so, he or she is
712 entitled only to inspect such documents at reasonable times and
713 places.

714 (2) The owner may serve in writing a demand of any lienor
715 for a written statement under oath of his or her account showing
716 the nature of the labor or services performed and to be
717 performed, if any, the materials furnished, the materials to be
718 furnished, if known, the amount paid on account to date, the
719 amount due, and the amount to become due, if known, as of the
720 date of the statement by the lienor. Any such demand to a lienor
721 must be served on the lienor at the address and to the attention
722 of any person who is designated to receive the demand in the
723 notice to owner served by such lienor and must include a
724 description of the property and the names of the owner, the
725 contractor, and the lienor's customer, as set forth in the

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726 lienor's notice to owner. The failure or refusal to furnish the
727 statement does not deprive the lienor of his or her lien if the
728 demand is not served at the address of the lienor or directed to
729 the attention of the person designated to receive the demand in
730 the notice to owner. The failure or refusal to furnish the
731 statement under oath within 30 days after the demand, or the
732 furnishing of a false or fraudulent statement, deprives the
733 person so failing or refusing to furnish such statement of his
734 or her lien. If the owner serves more than one demand for
735 statement of account on a lienor and none of the information
736 regarding the account has changed since the lienor's last
737 response to a demand, the failure or refusal to furnish such
738 statement does not deprive the lienor of his or her lien. The
739 negligent inclusion or omission of any information deprives the
740 person of his or her lien to the extent the owner can
741 demonstrate prejudice from such act or omission by the lienor.
742 The failure to furnish a response to a demand for statement of
743 account does not affect the validity of any claim of lien being
744 enforced through a foreclosure case filed before ~~prior to~~ the
745 date the demand for statement is received by the lienor.

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

748

749 REQUEST FOR SWORN STATEMENT OF ACCOUNT

750

751 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT, SIGNED
752 UNDER OATH, WITHIN 30 DAYS OR THE FURNISHING OF A FALSE
753 STATEMENT WILL RESULT IN THE LOSS OF YOUR LIEN.

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755 To: ...(Lienor's name and address)...

756

757 The undersigned hereby demands a written statement under oath of
758 his or her account showing the nature of the labor or services
759 performed and to be performed, if any, the materials furnished,
760 the materials to be furnished, if known, the amount paid on
761 account to date, the amount due, and the amount to become due,
762 if known, as of the date of the statement for the improvement of
763 real property identified as ...(property description)....

764

765 ...(name of contractor)...

766

767 ...(name of the lienor's customer, as set forth in the
768 lienor's Notice to Owner, if such notice has been served)...

769

770

771 ... (signature and address of owner)...

772 ... (date of request for sworn statement of account)...

773

774

775 (4) When a contractor has furnished a payment bond pursuant
776 to s. 713.23, he or she may, when an owner makes any payment to
777 the contractor or directly to a lienor, serve a written demand
778 on any other lienor for a written statement under oath of his or
779 her account showing the nature of the labor or services
780 performed and to be performed, if any, the materials furnished,
781 the materials to be furnished, if known, the amount paid on
782 account to date, the amount due, and the amount to become due,
783 if known, as of the date of the statement by the lienor. Any

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784 such demand to a lienor must be served on the lienor at the
785 address and to the attention of any person who is designated to
786 receive the demand in the notice to contractor served by such
787 lienor. The demand must include a description of the property
788 and the names of the owner, the contractor, and the lienor's
789 customer, as set forth in the lienor's notice to contractor. The
790 failure or refusal to furnish the statement does not deprive the
791 lienor of his or her rights under the bond if the demand is not
792 served at the address of the lienor or directed to the attention
793 of the person designated to receive the demand in the notice to
794 contractor. The failure to furnish the statement within 30 days
795 after the demand, or the furnishing of a false or fraudulent
796 statement, deprives the person who fails to furnish the
797 statement, or who furnishes the false or fraudulent statement,
798 of his or her rights under the bond. If the contractor serves
799 more than one demand for statement of account on a lienor and
800 none of the information regarding the account has changed since
801 the lienor's last response to a demand, the failure or refusal
802 to furnish such statement does not deprive the lienor of his or
803 her rights under the bond. The negligent inclusion or omission
804 of any information deprives the person of his or her rights
805 under the bond to the extent the contractor can demonstrate
806 prejudice from such act or omission by the lienor. The failure
807 to furnish a response to a demand for statement of account does
808 not affect the validity of any claim on the bond being enforced
809 in a lawsuit filed prior to the date the demand for statement of
810 account is received by the lienor.

811 (5) (a) Any lienor who is perfecting a claim of lien ~~has~~
812 ~~recorded a claim of lien~~ may serve with the claim of lien or

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813 thereafter a ~~make~~ written demand on the owner for a written
814 statement under oath showing:

815 1. The amount of the direct contract under which the lien
816 was recorded;

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

820 3. The reasonable estimated costs of completing the direct
821 contract under which the lien was claimed pursuant to the scope
822 of the direct contract; and

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

824 (b) Any owner who does not provide the statement within 30
825 days after demand, or who provides a false or fraudulent
826 statement, is not a prevailing party for purposes of an award of
827 attorney ~~attorney's~~ fees under s. 713.29. The written demand
828 must include the following warning in conspicuous type in
829 substantially the following form:

830

831 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT WITHIN
832 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL RESULT IN
833 THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY ACTION TO
834 ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING THIS
835 STATEMENT.

836 (6) Any written demand served on the owner must include a
837 description of the property and the names of the contractor and
838 the lienor's customer, as set forth in the lienor's notice to
839 owner.

840 (7) ~~(6)~~ For purposes of this section, the term "information"
841 means the nature and quantity of the labor, services, and

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842 materials furnished or to be furnished by a lienor and the
843 amount paid, the amount due, and the amount to become due on the
844 lienor's account.

845 Section 8. Section 713.18, Florida Statutes, is amended to
846 read:

847 713.18 Manner of serving notices and other instruments.—

848 (1) Service of notices, claims of lien, affidavits,
849 assignments, and other instruments permitted or required under
850 this part, or copies thereof when so permitted or required,
851 unless otherwise specifically provided in this part, must be
852 made by one of the following methods:

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

857 (b) By common carrier delivery service or ~~sending the same~~
858 by registered, Global Express Guaranteed, or certified mail,
859 with postage or shipping paid by the sender and prepaid, or by
860 ~~overnight or second-day delivery~~ with evidence of delivery,
861 which may be in an electronic format.

862 (c) ~~If the method specified in paragraph (a) or paragraph~~
863 ~~(b) cannot be accomplished~~, By posting on the site of the
864 improvement if service as provided by paragraph (a) or paragraph
865 (b) cannot be accomplished premises.

866 (2) Notwithstanding subsection (1), service of ~~if~~ a notice
867 to owner or, a notice to contractor under s. 713.23, s. 337.18,
868 or a ~~preliminary notice under~~ s. 255.05 is ~~mailed by registered~~
869 ~~or certified mail with postage prepaid to the person to be~~
870 ~~served at any of the addresses set forth in subsection (3)~~

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871 ~~within 40 days after the date the lienor first furnishes labor,~~
872 ~~services, or materials, service of that notice is~~ effective as
873 of the date of mailing if:

874 (a) The notice is mailed by registered, Global Express
875 Guaranteed, or certified mail, with postage prepaid, to the
876 person to be served at any of the addresses set forth in
877 subsection (3);

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

880 (c)1. The person who served the notice maintains a
881 registered or certified mail log that shows the registered or
882 certified mail number issued by the United States Postal
883 Service, the name and address of the person served, and the date
884 stamp of the United States Postal Service confirming the date of
885 mailing; or ~~if~~

886 2. The person who served the notice maintains electronic
887 tracking records generated by ~~through use of~~ the United States
888 Postal Service ~~Confirm service or a similar service~~ containing
889 the postal tracking number, the name and address of the person
890 served, and verification of the date of receipt by the United
891 States Postal Service.

892 (3) (a) ~~Service of~~ ~~if~~ an instrument ~~served~~ pursuant to this
893 section is effective on the date of mailing the instrument if
894 it:

895 1. Is sent to the last address shown in the notice of
896 commencement or any amendment thereto or, in the absence of a
897 notice of commencement, to the last address shown in the
898 building permit application, or to the last known address of the
899 person to be served; ~~and, is not received, but~~

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

904 (b) If the address shown in the notice of commencement or
905 any amendment to the notice of commencement, or, in the absence
906 of a notice of commencement, in the building permit application,
907 is incomplete for purposes of mailing or delivery, the person
908 serving the item may complete the address and properly format it
909 according to United States Postal Service addressing standards
910 using information obtained from the property appraiser or
911 another public record without affecting the validity of service
912 under this section.

913 (4) A notice served by a lienor on one owner or one partner
914 of a partnership owning the real property ~~If the real property~~
915 ~~is owned by more than one person or a partnership, a lienor may~~
916 ~~serve any notices or other papers under this part on any one of~~
917 ~~such owners or partners, and such notice is deemed notice to all~~
918 owners and partners.

919 Section 9. Section 713.22, Florida Statutes, is amended to
920 read:

921 713.22 Duration of lien.—

922 (1) A ~~Ne~~ lien provided by this part does not shall continue
923 for a longer period than 1 year after the claim of lien has been
924 recorded or 1 year after the recording of an amended claim of
925 lien that shows a later date of final furnishing of labor,
926 services, or materials, unless within that time an action to
927 enforce the lien is commenced in a court of competent
928 jurisdiction. A lien that has been continued beyond the 1-year

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929 period ~~The continuation of the lien effected~~ by the commencement
 930 of an ~~the~~ action is ~~shall~~ not enforceable ~~be good~~ against
 931 creditors or subsequent purchasers for a valuable consideration
 932 and without notice, unless a notice of lis pendens is recorded.

933 (2) An owner or the owner's ~~agent or~~ attorney may elect to
 934 shorten the time prescribed in subsection (1) within which to
 935 commence an action to enforce any claim of lien or claim against
 936 a bond or other security under s. 713.23 or s. 713.24 by
 937 recording in the clerk's office a notice in substantially the
 938 following form:

939
 940 NOTICE OF CONTEST OF LIEN

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

942 You are notified that the undersigned contests the claim of lien
 943 filed by you on, ...(year)...., and recorded in Book
 944, Page, of the public records of County, Florida,
 945 and that the time within which you may file suit to enforce your
 946 lien is limited to 60 days from the date of service of this
 947 notice. This day of, ...(year)....

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

949
 950 The lien of any lienor upon whom such notice is served and who
 951 fails to institute a suit to enforce his or her lien within 60
 952 days after service of such notice shall be extinguished
 953 automatically. The clerk shall serve, in accordance with s.
 954 713.18, ~~mail~~ a copy of the notice of contest to the lien
 955 claimant at the address shown in the claim of lien or most
 956 recent amendment thereto and shall certify to such service and
 957 the date of service on the face of the ~~such~~ notice and record

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958 the notice. ~~Service shall be deemed complete upon mailing.~~

959 Section 10. Paragraphs (c), (d), (e), and (f) of subsection
960 (1) and subsections (2) and (4) of section 713.23, Florida
961 Statutes, are amended to read:

962 713.23 Payment bond.—

963 (1)

964 (c) ~~Either~~ Before beginning or within 45 days after
965 beginning to furnish labor, materials, or supplies, a lienor who
966 is not in privity with the contractor, except a laborer, shall
967 serve the contractor with notice in writing that the lienor will
968 look to the contractor's bond for protection on the work. If a
969 notice of commencement with the attached bond is not recorded
970 before commencement of construction, ~~or a reference to the bond~~
971 ~~is not given in the notice of commencement, and in either case~~
972 ~~if the lienor not in privity with the contractor is not~~
973 ~~otherwise notified in writing of the existence of the bond~~, the
974 lienor not in privity with the contractor may, in the
975 alternative, elect to serve the notice to the contractor up to
976 shall have 45 days after from the date the lienor is served with
977 a copy notified of the existence of the bond ~~within which to~~
978 ~~serve the notice.~~ A notice to owner pursuant to s. 713.06 which
979 has been timely served on the contractor satisfies the
980 requirements of this paragraph. In no event, however, shall the
981 limitation period for commencement of an action on the payment
982 bond as established in paragraph (e) be expanded. The notice may
983 be in substantially the following form and may be combined with
984 a notice to owner given under s. 713.06 and, if so, may be
985 entitled "NOTICE TO OWNER/NOTICE TO CONTRACTOR:"

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987

988

NOTICE TO CONTRACTOR

989

990 To ... (name and address of contractor) ...

991

992 The undersigned hereby informs you that he or she has furnished993 or is furnishing services or materials as follows:

994

995 ...(general description of services or materials)... for the996 improvement of the real property identified as ...(property997 description)... under an order given by ...(lienor's998 customer)....

999

1000 This notice is to inform you that the undersigned intends to1001 look to the contractor's bond to secure payment for the1002 furnishing of materials or services for the improvement of the1003 real property.

1004

1005 ...(name of lienor)...1006 ...(signature of lienor or lienor's representative)...1007 ...(date)...1008 ...(lienor's address)...

1009

1010 ~~The undersigned notifies you that he or she has furnished or is~~1011 ~~furnishing ...(services or materials)... for the improvement of~~1012 ~~the real property identified as ...(property description)...~~1013 ~~owned by ...(owner's name and address)... under an order given~~1014 ~~by and that the undersigned will look to the contractor's~~1015 ~~bond for protection on the work.~~

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~~... (Lienor's signature and address) ...~~

(d) In addition, a lienor is required, as a condition precedent to recovery under the bond, to serve a written notice of nonpayment to the contractor and the surety not later than 90 days after the final furnishing of labor, services, or materials by the lienor. A written notice satisfies this condition precedent with respect to the payment described in the notice of nonpayment, including unpaid finance charges due under the lienor's contract, and with respect to any other payments which become due to the lienor after the date of the notice of nonpayment. The time period for serving a written notice of nonpayment shall be measured from the last day of furnishing labor, services, or materials by the lienor and shall not be measured by other standards, such as the issuance of a certificate of occupancy or the issuance of a certificate of substantial completion. The failure of a lienor to receive retainage sums not in excess of 10 percent of the value of labor, services, or materials furnished by the lienor is not considered a nonpayment requiring the service of the notice provided under this paragraph. If the payment bond is not recorded before commencement of construction, the time period for the lienor to serve a notice of nonpayment may at the option of the lienor be calculated from the date specified in this section or the date the lienor is served a copy of the bond. However, the limitation period for commencement of an action on the payment bond as established in paragraph (e) may not be expanded. The notice under this paragraph may be in

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1045 substantially the following form:

1046

1047 NOTICE OF NONPAYMENT

1048

1049 To ...(name of contractor and address)...

1050

1051 ...(name of surety and address)...

1052

1053 The undersigned notifies you that he or she has furnished

1054 ...(describe labor, services, or materials)... for the

1055 improvement of the real property identified as ...(property

1056 description).... The amount now due and unpaid is \$.....

1057

1058 ...(signature and address of lienor)...

1059

1060 (e) An ~~Ne~~ action for the labor or materials or supplies may

1061 not be instituted or prosecuted against the contractor or surety

1062 unless both notices have been given, if required by this

1063 section. An ~~Ne~~ action may not ~~shall~~ be instituted or prosecuted

1064 against the contractor or against the surety on the bond under

1065 this section after 1 year from the performance of the labor or

1066 completion of delivery of the materials and supplies. The time

1067 period for bringing an action against the contractor or surety

1068 on the bond shall be measured from the last day of furnishing

1069 labor, services, or materials by the lienor. The time period ~~and~~

1070 may ~~shall~~ not be measured by other standards, such as the

1071 issuance of a certificate of occupancy or the issuance of a

1072 certificate of substantial completion. A contractor or the

1073 contractor's ~~agent or~~ attorney may elect to shorten the

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1074 ~~prescribed~~ time within which an action to enforce any claim
1075 against a payment bond provided under this section or s. 713.245
1076 must ~~may~~ be commenced at any time after a notice of nonpayment,
1077 if required, has been served for the claim by recording in the
1078 clerk's office a notice in substantially the following form:

1080 NOTICE OF CONTEST OF CLAIM
1081 AGAINST PAYMENT BOND

1082
1083 To:(Name and address of lienor)....

1084 You are notified that the undersigned contests your notice
1085 of nonpayment, dated,, and served on the undersigned
1086 on,, and that the time within which you may file suit
1087 to enforce your claim is limited to 60 days from the date of
1088 service of this notice.

1089
1090 DATED on,

1091
1092 Signed: ...(Contractor or Attorney)...

1093
1094 The claim of any lienor upon whom the notice is served and who
1095 fails to institute a suit to enforce his or her claim against
1096 the payment bond within 60 days after service of the notice
1097 shall be extinguished automatically. The contractor or the
1098 contractor's attorney ~~clerk~~ shall serve ~~mail~~ a copy of the
1099 notice of contest to the lienor at the address shown in the
1100 notice of nonpayment or most recent amendment thereto and shall
1101 certify to such service on the face of the notice and record the
1102 notice. ~~Service is complete upon mailing.~~

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1103 (f) A ~~Any~~ lienor has a direct right of action on the bond
1104 against the surety. Any provision in a payment bond which
1105 further restricts ~~A bond must not contain any provisions~~
1106 ~~restricting~~ the classes of persons who are protected by the
1107 payment bond, which restricts thereby or the venue of any
1108 proceeding relating to such payment bond, which limits or
1109 expands the effective duration of the payment bond, or which
1110 adds conditions precedent to the enforcement of a claim against
1111 a payment bond beyond those provided in this part is
1112 unenforceable. The surety is not entitled to the defense of pro
1113 tanto discharge as against any lienor because of changes or
1114 modifications in the contract to which the surety is not a
1115 party; but the liability of the surety may not be increased
1116 beyond the penal sum of the bond. A lienor may not waive in
1117 advance his or her right to bring an action under the bond
1118 against the surety.

1119 (2) The bond shall secure every lien under the direct
1120 contract accruing subsequent to its execution and delivery,
1121 except that of the contractor. Every claim of lien, except that
1122 of the contractor, filed subsequent to execution and delivery of
1123 the bond shall be transferred to it with the same effect as
1124 liens transferred under s. 713.24. Record notice of the transfer
1125 shall be effected by the contractor, or any person having an
1126 interest in the property against which the claim of lien has
1127 been asserted, by recording in the clerk's office a notice, with
1128 the bond attached, in substantially the following form:

NOTICE OF BOND

590-03253-12

20121202c1

1132 To ... (Name and Address of Lienor)...

1133

1134 You are notified that the claim of lien filed by you on,
1135, and recorded in Official Records Book at page of
1136 the public records of County, Florida, is secured by a
1137 bond, a copy being attached.

1138

1139 Signed: ... (Name of person recording notice)...

1140

1141 The notice shall be verified. The person recording the notice of
1142 bond ~~clerk~~ shall serve mail a copy of the notice with a copy of
1143 the bond to the lienor at the address shown in the claim of
1144 lien, or the most recent amendment to it; shall certify to the
1145 service on the face of the notice; and shall record the notice.
1146 ~~The clerk shall receive the same fee as prescribed in s.~~
1147 ~~713.24(1) for certifying to a transfer of lien.~~

1148

1149 (4) The provisions of s. 713.24(3) ~~shall~~ apply to bonds
1150 under this section except when those provisions conflict with
1151 this section.

1151

Section 11. This act shall take effect October 1, 2012.