

1 A bill to be entitled
2 An act relating to construction contracting; amending
3 s. 95.11, F.S.; adding a cross-reference; amending s.
4 255.05, F.S.; requiring that the bond number be stated
5 on the first page of the bond; providing that a public
6 entity may not make payment to the contractor unless
7 the public entity has received a certified copy of the
8 bond; providing that a provision in a payment bond
9 furnished for a public works contract that limits or
10 expands the effective duration of the bond or adds
11 conditions precedent is unenforceable; requiring a
12 contractor, or the contractor's attorney, to serve
13 rather than mail a notice of contest of claim against
14 the payment bond; providing prerequisites for
15 commencement of an action against a payment bond;
16 requiring payment bond forms to reference specified
17 notice and time limitation provisions; providing that
18 payment to a contractor who has furnished a payment
19 bond on a public works project may not be conditioned
20 upon production of certain documents if the surety has
21 given written consent; providing for the surety to
22 withhold or revoke consent; creating s. 255.0518,
23 F.S.; requiring that the state, a county, a
24 municipality, or any other public body or institution
25 open sealed bids received in response to a competitive
26 solicitation at a public meeting, announce the name of
27 each bidder and the price submitted, and make
28 available upon request the names of bidders and

29 submitted prices; amending s. 713.10, F.S.; providing
30 that a specified notice concerning a lessor's
31 liability for liens for improvements made by the
32 lessee prohibits liens even if other leases do not
33 expressly prohibit liens or if certain other
34 provisions are not identical; amending s. 713.13,
35 F.S.; revising a notice form to clarify that the
36 notice of commencement expires 1 year after the date
37 of recording; removing a clause relating to perjury;
38 providing additional time for service when a notice of
39 commencement is not recorded with a copy of the bond
40 attached; reenacting and amending s. 489.118, F.S.;
41 reviving certain grandfathering provisions and setting
42 a new deadline by which certain registered contractors
43 may apply for certification; amending s. 713.132,
44 F.S.; requiring notice of termination to be served on
45 lienors in privity with the owner; amending s. 713.16,
46 F.S.; revising requirements for demands for a copy of
47 a construction contract and a statement of account;
48 authorizing a lienor to make certain written demands
49 to an owner for certain written statements; providing
50 requirements for such written demands; amending s.
51 713.18, F.S.; providing additional methods by which
52 certain items may be served; revising provisions
53 relating to when service of specified items is
54 effective; specifying requirements for certain written
55 instruments under certain circumstances; amending s.
56 713.22, F.S.; requiring that the clerk serve rather

57 | than mail a notice of contest of lien; amending s.
 58 | 713.23, F.S.; revising the contents of a notice to
 59 | contractor; requiring that a contractor serve rather
 60 | than mail a notice of contest of claim against the
 61 | payment bond and a notice of bond; clarifying the
 62 | attachment of the bond to the notice; providing that a
 63 | provision in a payment bond that limits or expands the
 64 | effective duration of the bond or adds conditions
 65 | precedent is unenforceable; clarifying applicability
 66 | of certain provisions; providing an effective date.

67 |

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

69 |

70 | Section 1. Paragraph (b) of subsection (2) and paragraph
 71 | (e) of subsection (5) of section 95.11, Florida Statutes, are
 72 | amended to read:

73 | 95.11 Limitations other than for the recovery of real
 74 | property.—Actions other than for recovery of real property shall
 75 | be commenced as follows:

76 | (2) WITHIN FIVE YEARS.—

77 | (b) A legal or equitable action on a contract, obligation,
 78 | or liability founded on a written instrument, except for an
 79 | action to enforce a claim against a payment bond, which shall be
 80 | governed by the applicable provisions of paragraph (5)(e), s.
 81 | ~~ss.~~ 255.05(10), s. 337.18(1), or s. and 713.23(1)(e).

82 | (5) WITHIN ONE YEAR.—

83 | (e) Except for actions governed by s. 255.05(10), s.
 84 | 337.18(1), or s. 713.23(1)(e), an action to enforce any claim

85 against a payment bond on which the principal is a contractor,
 86 subcontractor, or sub-subcontractor as defined in s. 713.01, for
 87 private work as well as public work, from the last furnishing of
 88 labor, services, or materials or from the last furnishing of
 89 labor, services, or materials by the contractor if the
 90 contractor is the principal on a bond on the same construction
 91 project, whichever is later.

92 Section 2. Subsection (1), paragraph (a) of subsection
 93 (2), and subsection (6) of section 255.05, Florida Statutes, are
 94 amended, and subsection (11) is added to that section, to read:

95 255.05 Bond of contractor constructing public buildings;
 96 form; action by claimants ~~materialmen~~.-

97 (1) ~~(a)~~ A ~~Any~~ person entering into a formal contract with
 98 the state or any county, city, or political subdivision thereof,
 99 or other public authority or private entity, for the
 100 construction of a public building, for the prosecution and
 101 completion of a public work, or for repairs upon a public
 102 building or public work shall be required, before commencing the
 103 work or before recommencing the work after a default or
 104 abandonment, to execute, ~~deliver to the public owner,~~ and record
 105 in the public records of the county where the improvement is
 106 located, a payment and performance bond with a surety insurer
 107 authorized to do business in this state as surety. A public
 108 entity may not require a contractor to secure a surety bond
 109 under this section from a specific agent or bonding company.

110 (a) The bond must state on its front page:

111 1. The name, principal business address, and phone number
 112 of the contractor, the surety, the owner of the property being

113 improved, and, if different from the owner, the contracting
114 public entity.~~†~~

115 2. The contract number assigned by the contracting public
116 entity.~~†~~

117 3. The bond number assigned by the surety. ~~and~~

118 4. A description of the project sufficient to identify it,
119 such as a legal description or the street address of the
120 property being improved, and a general description of the
121 improvement.

122 (b) Before commencing the work or before recommencing the
123 work after a default or abandonment, the contractor shall
124 provide to the public entity a certified copy of the recorded
125 bond. Notwithstanding the terms of the contract or any other law
126 governing prompt payment for construction services, the public
127 entity may not make a payment to the contractor until the
128 contractor has complied with this paragraph.

129 (c) The ~~Such~~ bond shall be conditioned upon the
130 contractor's performance of the construction work in the time
131 and manner prescribed in the contract and promptly making
132 payments to all persons defined in s. 713.01 who furnish labor,
133 services, or materials for the prosecution of the work provided
134 for in the contract. ~~A~~ Any claimant may apply to the
135 governmental entity having charge of the work for copies of the
136 contract and bond and shall thereupon be furnished with a
137 ~~certified~~ copy of the contract and the recorded bond. The
138 claimant shall have a cause ~~right~~ of action against the
139 contractor and surety for the amount due him or her, including
140 unpaid finance charges due under the claimant's contract. Such

141 action may ~~shall~~ not involve the public authority in any
 142 expense.

143 (d) When the ~~such~~ work is done for the state and the
 144 contract is for \$100,000 or less, no payment and performance
 145 bond shall be required. At the discretion of the official or
 146 board awarding such contract when such work is done for any
 147 county, city, political subdivision, or public authority, a ~~any~~
 148 person entering into such a contract that ~~which~~ is for \$200,000
 149 or less may be exempted from executing the payment and
 150 performance bond. When such work is done for the state, the
 151 Secretary of Management Services may delegate to state agencies
 152 the authority to exempt any person entering into such a contract
 153 amounting to more than \$100,000 but less than \$200,000 from
 154 executing the payment and performance bond. If an ~~In the event~~
 155 ~~such~~ exemption is granted, the officer or official ~~officials~~
 156 ~~shall~~ ~~be~~ personally liable to persons suffering loss because
 157 of granting such exemption. The Department of Management
 158 Services shall maintain information on the number of requests by
 159 state agencies for delegation of authority to waive the bond
 160 requirements by agency and project number and whether any
 161 request for delegation was denied and the justification for the
 162 denial.

163 (e) Any provision in a payment bond furnished for public
 164 work contracts as provided by this subsection which further
 165 restricts the classes of persons ~~as defined in s. 713.01~~
 166 protected by the bond, which restricts ~~or~~ the venue of any
 167 proceeding relating to such bond, which limits or expands the
 168 effective duration of the bond, or which adds conditions

169 precedent to the enforcement of a claim against the bond beyond
 170 those provided in this section is unenforceable.

171 (f)~~(b)~~ The Department of Management Services shall adopt
 172 rules with respect to all contracts for \$200,000 or less, to
 173 provide:

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

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

185
 186 The state is ~~shall not be held~~ liable to any laborer,
 187 materialman, or subcontractor for any amounts greater than the
 188 pro rata share as determined under this section.

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

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

197 if the public owner does not include in the bond amount the cost
 198 of design or other nonconstruction services, the bond may not be
 199 conditioned on performance of such services or payment to
 200 persons furnishing such services. Notwithstanding paragraphs (c)
 201 and (e) ~~paragraph (a)~~, such a bond may exclude persons
 202 furnishing such services from the classes of persons protected
 203 by the bond.

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

211
 212 NOTICE OF CONTEST OF CLAIM
 213 AGAINST PAYMENT BOND
 214

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

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

223 DATED on,
 224

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

226

227 The claim of a ~~any~~ claimant upon whom such notice is served and
 228 who fails to institute a suit to enforce his or her claim
 229 against the payment bond within 60 days after service of such
 230 notice shall be extinguished automatically. The contractor or
 231 the contractor's attorney ~~clerk~~ shall serve ~~mail~~ a copy of the
 232 notice of contest to the claimant at the address shown in the
 233 notice of nonpayment or most recent amendment thereto and shall
 234 certify to such service on the face of the ~~such~~ notice and
 235 record the notice. ~~Service is complete upon mailing.~~

236 2. A claimant, except a laborer, who is not in privity
 237 with the contractor shall, before commencing or not later than
 238 45 days after commencing to furnish labor, services, or
 239 materials for the prosecution of the work, furnish the
 240 contractor with a written notice that he or she intends to look
 241 to the bond for protection. A claimant who is not in privity
 242 with the contractor and who has not received payment for his or
 243 her labor, services, or materials shall deliver to the
 244 contractor and to the surety written notice of the performance
 245 of the labor or delivery of the materials or supplies and of the
 246 nonpayment. The notice of nonpayment shall ~~may~~ be served ~~at any~~
 247 ~~time~~ during the progress of the work or thereafter but may not
 248 be served earlier than ~~before~~ 45 days after the first furnishing
 249 of labor, services, or materials or, ~~and not~~ later than 90 days
 250 after the final furnishing of the labor, services, or materials
 251 by the claimant or, with respect to rental equipment, not later
 252 than 90 days after the date that the rental equipment was last

253 on the job site available for use. Any notice of nonpayment
 254 served by a claimant who is not in privity with the contractor
 255 which includes sums for retainage must specify the portion of
 256 the amount claimed for retainage. An ~~Ne~~ action for the labor,
 257 materials, or supplies may not be instituted against the
 258 contractor or the surety unless the notice to the contractor and
 259 notice of nonpayment have been served, if required by this
 260 section ~~both notices have been given~~. Notices required or
 261 permitted under this section shall ~~may~~ be served in accordance
 262 with s. 713.18. A claimant may not waive in advance his or her
 263 right to bring an action under the bond against the surety. In
 264 any action brought to enforce a claim against a payment bond
 265 under this section, the prevailing party is entitled to recover
 266 a reasonable fee for the services of his or her attorney for
 267 trial and appeal or for arbitration, in an amount to be
 268 determined by the court, which fee must be taxed as part of the
 269 prevailing party's costs, as allowed in equitable actions. The
 270 time periods for service of a notice of nonpayment or for
 271 bringing an action against a contractor or a surety shall be
 272 measured from the last day of furnishing labor, services, or
 273 materials by the claimant and may ~~shall~~ not be measured by other
 274 standards, such as the issuance of a certificate of occupancy or
 275 the issuance of a certificate of substantial completion.

276 (6) All payment bond forms used by a public owner and all
 277 payment bonds executed pursuant to this section by a surety
 278 shall make reference to this section by number, ~~and~~ shall
 279 contain reference to the notice and time limitation provisions
 280 in subsections ~~subsection~~ (2) and (10), and shall comply with

281 the requirements of paragraph (1) (a).

282 (11) When a contractor furnishes and records a payment and
 283 performance bond for a public works project in accordance with
 284 this section and provides the public authority with a written
 285 consent from the surety regarding the project or payment in
 286 question, the public authority may not condition its payment to
 287 the contractor on the production of a release, waiver, or like
 288 documentation from a claimant demonstrating that the claimant
 289 does not have an outstanding claim against the contractor, the
 290 surety, the payment bond, or the public authority for payments
 291 due on labor, services, or materials furnished on the public
 292 works project. The surety may, in a writing served on the public
 293 authority, revoke its consent or direct that the public
 294 authority withhold a specified amount from a payment, which
 295 shall be effective upon receipt.

296 Section 3. Section 255.0518, Florida Statutes, is created
 297 to read:

298 255.0518 Public bids; bid opening.—Notwithstanding s.
 299 119.071(1) (b), the state or any county or municipality thereof
 300 or any department or agency of the state, county, or
 301 municipality or any other public body or institution shall:

302 (1) When opening sealed bids or the portion of any sealed
 303 bids that include the prices submitted that are received
 304 pursuant to a competitive solicitation for construction or
 305 repairs on a public building or public work, open the sealed
 306 bids at a public meeting conducted in compliance with s.

307 286.011.

308 (2) Announce at that meeting the name of each bidder and

309 the price submitted.

310 (3) Make available upon request the name of each bidder
 311 and the price submitted.

312 Section 4. Paragraph (b) of subsection (2) of section
 313 713.10, Florida Statutes, is amended to read:

314 713.10 Extent of liens.—

315 (2)

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

318 1. The lease, or a short form or a memorandum of the lease
 319 that contains the specific language in the lease prohibiting
 320 such liability, is recorded in the official records of the
 321 county where the premises are located before the recording of a
 322 notice of commencement for improvements to the premises and the
 323 terms of the lease expressly prohibit such liability; or

324 2. The terms of the lease expressly prohibit such
 325 liability, and a notice advising that leases for the rental of
 326 premises on a parcel of land prohibit such liability has been
 327 recorded in the official records of the county in which the
 328 parcel of land is located before the recording of a notice of
 329 commencement for improvements to the premises, and the notice
 330 includes the following:

331 a. The name of the lessor.

332 b. The legal description of the parcel of land to which
 333 the notice applies.

334 c. The specific language contained in the various leases
 335 prohibiting such liability.

336 d. A statement that all or a majority of the leases

337 entered into for premises on the parcel of land expressly
 338 prohibit such liability.

339 3. The lessee is a mobile home owner who is leasing a
 340 mobile home lot in a mobile home park from the lessor.

341
 342 A notice that is consistent with subparagraph 2. effectively
 343 prohibits liens for improvements made by a lessee even if other
 344 leases for premises on the parcel do not expressly prohibit
 345 liens or if provisions of each lease restricting the application
 346 of liens are not identical.

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

349 713.13 Notice of commencement.—

350 (1)

351 (d) A notice of commencement must be in substantially the
 352 following form:

353

354 Permit No..... Tax Folio No.....

355 NOTICE OF COMMENCEMENT

356 State of....

357 County of....

358

359 The undersigned hereby gives notice that improvement will be
 360 made to certain real property, and in accordance with Chapter
 361 713, Florida Statutes, the following information is provided in
 362 this Notice of Commencement.

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

365 2. General description of improvement:.....

366 3. Owner information or Lessee information if the Lessee

367 contracted for the improvement:

368 a. Name and address:.....

369 b. Interest in property:.....

370 c. Name and address of fee simple titleholder (if

371 different from Owner listed above):.....

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

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

374 5. Surety (if applicable, a copy of the payment bond is

375 attached):

376 a. Name and address:.....

377 b. Phone number:.....

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

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

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

381 7. Persons within the State of Florida designated by Owner

382 upon whom notices or other documents may be served as provided

383 by Section 713.13(1)(a)7., Florida Statutes:

384 a. Name and address:.....

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

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

387 of to receive a copy of the Lienor's

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

389 b. Phone number of person or entity designated by

390 owner:.....

391 9. Expiration date of notice of commencement (the

392 expiration date ~~may not be before the completion of construction~~

393 ~~and final payment to the contractor, but~~ will be 1 year from the
 394 date of recording unless a different date is specified).....

395
 396 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE
 397 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER
 398 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA
 399 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS
 400 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
 401 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU
 402 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN
 403 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF
 404 COMMENCEMENT.

405
 406 ~~Under penalty of perjury, I declare that I have read the~~
 407 ~~foregoing notice of commencement and that the facts stated~~
 408 ~~therein are true to the best of my knowledge and belief.~~

409
 410 ... (Signature of Owner or Lessee, or Owner's or Lessee's
 411 Authorized Officer/Director/Partner/Manager)...

412
 413 ... (Signatory's Title/Office)...

414
 415 The foregoing instrument was acknowledged before me this
 416 day of, ...(year)...., by ...(name of person)... as ...(type
 417 of authority, . . . e.g. officer, trustee, attorney in
 418 fact)... for ...(name of party on behalf of whom instrument was
 419 executed).....

420

421 ... (Signature of Notary Public - State of Florida) ...
 422
 423 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
 424

425 Personally Known OR Produced Identification
 426

427 Type of Identification Produced.....
 428

429 (e) A copy of any payment bond must be attached at the
 430 time of recordation of the notice of commencement. The failure
 431 to attach a copy of the bond to the notice of commencement when
 432 the notice is recorded negates the exemption provided in s.
 433 713.02(6). However, if a payment bond under s. 713.23 exists but
 434 was not attached at the time of recordation of the notice of
 435 commencement, the bond may be used to transfer any recorded lien
 436 of a lienor except that of the contractor by the recordation and
 437 service of a notice of bond pursuant to s. 713.23(2). The notice
 438 requirements of s. 713.23 apply to any claim against the bond;
 439 however, the time limits for serving any required notices shall,
 440 at the option of the lienor, be calculated from the dates begin
 441 ~~running from the later of the time~~ specified in s. 713.23 or the
 442 date the notice of bond is served on the lienor.

443 Section 6. Section 489.118, Florida Statutes, is reenacted
 444 and amended to read:

445 489.118 Certification of registered contractors;
 446 grandfathering provisions.—The board shall, upon receipt of a
 447 completed application and appropriate fee, issue a certificate
 448 in the appropriate category to any contractor registered under

449 | this part who makes application to the board and can show that
450 | he or she meets each of the following requirements:

451 | (1) Currently holds a valid registered local license in
452 | one of the contractor categories defined in s. 489.105(3)(a)-(q)
453 | ~~489.105(3)(a)-(p)~~.

454 | (2) Has, for that category, passed a written examination
455 | that the board finds to be substantially similar to the
456 | examination required to be licensed as a certified contractor
457 | under this part. For purposes of this subsection, a written,
458 | proctored examination such as that produced by the National
459 | Assessment Institute, Block and Associates, NAI/Block, Experior
460 | Assessments, Professional Testing, Inc., or Assessment Systems,
461 | Inc., shall be considered to be substantially similar to the
462 | examination required to be licensed as a certified contractor.
463 | The board may not impose or make any requirements regarding the
464 | nature or content of these cited examinations.

465 | (3) Has at least 5 years of experience as a contractor in
466 | that contracting category, or as an inspector or building
467 | administrator with oversight over that category, at the time of
468 | application. For contractors, only time periods in which the
469 | contractor license is active and the contractor is not on
470 | probation shall count toward the 5 years required by this
471 | subsection.

472 | (4) Has not had his or her contractor's license revoked at
473 | any time, had his or her contractor's license suspended within
474 | the last 5 years, or been assessed a fine in excess of \$500
475 | within the last 5 years.

476 | (5) Is in compliance with the insurance and financial

477 responsibility requirements in s. 489.115(5).

478
 479 Applicants wishing to obtain a certificate pursuant to this
 480 section must make application by November 1, 2015 ~~2005~~.

481 Section 7. Paragraph (f) of subsection (1) and subsection
 482 (4) of section 713.132, Florida Statutes, are amended to read:

483 713.132 Notice of termination.—

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

487 (f) A statement that the owner has, before recording the
 488 notice of termination, served a copy of the notice of
 489 termination on the contractor and on each lienor who has a
 490 direct contract with the owner or who has served a notice to
 491 owner ~~given notice~~. The owner is not required to serve a copy of
 492 the notice of termination on any lienor who has executed a
 493 waiver and release of lien upon final payment in accordance with
 494 s. 713.20.

495 (4) A notice of termination is effective to terminate the
 496 notice of commencement at the later of 30 days after recording
 497 of the notice of termination or the date stated in the notice of
 498 termination as the date on which the notice of commencement is
 499 terminated, if ~~provided that~~ the notice of termination has been
 500 served pursuant to paragraph (1)(f) on the contractor and on
 501 each lienor who has a direct contract with the owner or who has
 502 served a notice to owner ~~given notice~~.

503 Section 8. Section 713.16, Florida Statutes, is amended to
 504 read:

505 713.16 Demand for copy of contract and statements of
506 account; form.—

507 (1) A copy of the contract of a lienor or owner and a
508 statement of the amount due or to become due if fixed or
509 ascertainable thereon must be furnished by any party thereto,
510 upon written demand of an owner or a lienor contracting with or
511 employed by the other party to such contract. If the owner or
512 lienor refuses or neglects to furnish such copy of the contract
513 or such statement, or willfully and falsely states the amount
514 due or to become due if fixed or ascertainable under such
515 contract, any person who suffers any detriment thereby has a
516 cause of action against the person refusing or neglecting to
517 furnish the same or willfully and falsely stating the amount due
518 or to become due for his or her damages sustained thereby. The
519 information contained in such copy or statement furnished
520 pursuant to such written demand is binding upon the owner or
521 lienor furnishing it unless actual notice of any modification is
522 given to the person demanding the copy or statement before such
523 person acts in good faith in reliance on it. The person
524 demanding such documents must pay for the reproduction thereof;
525 and, if such person fails or refuses to do so, he or she is
526 entitled only to inspect such documents at reasonable times and
527 places.

528 (2) The owner may serve in writing a demand of any lienor
529 for a written statement under oath of his or her account showing
530 the nature of the labor or services performed and to be
531 performed, if any, the materials furnished, the materials to be
532 furnished, if known, the amount paid on account to date, the

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533 amount due, and the amount to become due, if known, as of the
534 date of the statement by the lienor. Any such demand to a lienor
535 must be served on the lienor at the address and to the attention
536 of any person who is designated to receive the demand in the
537 notice to owner served by such lienor and must include a
538 description of the property and the names of the owner, the
539 contractor, and the lienor's customer, as set forth in the
540 lienor's notice to owner. The failure or refusal to furnish the
541 statement does not deprive the lienor of his or her lien if the
542 demand is not served at the address of the lienor or directed to
543 the attention of the person designated to receive the demand in
544 the notice to owner. The failure or refusal to furnish the
545 statement under oath within 30 days after the demand, or the
546 furnishing of a false or fraudulent statement, deprives the
547 person so failing or refusing to furnish such statement of his
548 or her lien. If the owner serves more than one demand for
549 statement of account on a lienor and none of the information
550 regarding the account has changed since the lienor's last
551 response to a demand, the failure or refusal to furnish such
552 statement does not deprive the lienor of his or her lien. The
553 negligent inclusion or omission of any information deprives the
554 person of his or her lien to the extent the owner can
555 demonstrate prejudice from such act or omission by the lienor.
556 The failure to furnish a response to a demand for statement of
557 account does not affect the validity of any claim of lien being
558 enforced through a foreclosure case filed before ~~prior to~~ the
559 date the demand for statement is received by the lienor.

560 (3) A request for sworn statement of account must be in

561 substantially the following form:

562

563 REQUEST FOR SWORN STATEMENT OF ACCOUNT

564

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

568

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

570

571 The undersigned hereby demands a written statement under oath of
 572 his or her account showing the nature of the labor or services
 573 performed and to be performed, if any, the materials furnished,
 574 the materials to be furnished, if known, the amount paid on
 575 account to date, the amount due, and the amount to become due,
 576 if known, as of the date of the statement for the improvement of
 577 real property identified as ...(property description)....

578

579 ...(name of contractor)...

580

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

583

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

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

586

587 (4) When a contractor has furnished a payment bond
 588 pursuant to s. 713.23, he or she may, when an owner makes any

589 payment to the contractor or directly to a lienor, serve a
590 written demand on any other lienor for a written statement under
591 oath of his or her account showing the nature of the labor or
592 services performed and to be performed, if any, the materials
593 furnished, the materials to be furnished, if known, the amount
594 paid on account to date, the amount due, and the amount to
595 become due, if known, as of the date of the statement by the
596 lienor. Any such demand to a lienor must be served on the lienor
597 at the address and to the attention of any person who is
598 designated to receive the demand in the notice to contractor
599 served by such lienor. The demand must include a description of
600 the property and the names of the owner, the contractor, and the
601 lienor's customer, as set forth in the lienor's notice to
602 contractor. The failure or refusal to furnish the statement does
603 not deprive the lienor of his or her rights under the bond if
604 the demand is not served at the address of the lienor or
605 directed to the attention of the person designated to receive
606 the demand in the notice to contractor. The failure to furnish
607 the statement within 30 days after the demand, or the furnishing
608 of a false or fraudulent statement, deprives the person who
609 fails to furnish the statement, or who furnishes the false or
610 fraudulent statement, of his or her rights under the bond. If
611 the contractor serves more than one demand for statement of
612 account on a lienor and none of the information regarding the
613 account has changed since the lienor's last response to a
614 demand, the failure or refusal to furnish such statement does
615 not deprive the lienor of his or her rights under the bond. The
616 negligent inclusion or omission of any information deprives the

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617 person of his or her rights under the bond to the extent the
618 contractor can demonstrate prejudice from such act or omission
619 by the lienor. The failure to furnish a response to a demand for
620 statement of account does not affect the validity of any claim
621 on the bond being enforced in a lawsuit filed prior to the date
622 the demand for statement of account is received by the lienor.

623 (5) (a) Any lienor who is perfecting a claim of lien ~~has~~
624 ~~recorded a claim of lien~~ may serve with the claim of lien or
625 thereafter a ~~make~~ written demand on the owner for a written
626 statement under oath showing:

627 1. The amount of the direct contract under which the lien
628 was recorded;

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

632 3. The reasonable estimated costs of completing the direct
633 contract under which the lien was claimed pursuant to the scope
634 of the direct contract; and

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

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

642

643 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT WITHIN
644 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL RESULT IN

645 THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY ACTION TO
 646 ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING THIS
 647 STATEMENT.

648 (6) Any written demand served on the owner must include a
 649 description of the property and the names of the contractor and
 650 the lienor's customer, as set forth in the lienor's notice to
 651 owner.

652 (7)~~(6)~~ For purposes of this section, the term
 653 "information" means the nature and quantity of the labor,
 654 services, and materials furnished or to be furnished by a lienor
 655 and the amount paid, the amount due, and the amount to become
 656 due on the lienor's account.

657 Section 9. Section 713.18, Florida Statutes, is amended to
 658 read:

659 713.18 Manner of serving notices and other instruments.—

660 (1) Service of notices, claims of lien, affidavits,
 661 assignments, and other instruments permitted or required under
 662 this part, or copies thereof when so permitted or required,
 663 unless otherwise specifically provided in this part, must be
 664 made by one of the following methods:

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

669 (b) By common carrier delivery service ~~or sending the same~~
 670 ~~by registered,~~ Global Express Guaranteed, or certified mail,
 671 with postage or shipping paid by the sender and prepaid, ~~or by~~
 672 ~~overnight or second-day delivery~~ with evidence of delivery,

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673 which may be in an electronic format.

674 (c) ~~If the method specified in paragraph (a) or paragraph~~
675 ~~(b) cannot be accomplished,~~ By posting on the site of the
676 improvement if service as provided by paragraph (a) or paragraph
677 (b) cannot be accomplished premises.

678 (2) Notwithstanding subsection (1), service of ~~if~~ a notice
679 to owner ~~or,~~ a preliminary notice to contractor under s. 255.05,
680 s. 337.18, or s. 713.23, ~~or a preliminary notice under s. 255.05~~
681 ~~is mailed by registered or certified mail with postage prepaid~~
682 ~~to the person to be served at any of the addresses set forth in~~
683 ~~subsection (3) within 40 days after the date the lienor first~~
684 ~~furnishes labor, services, or materials, service of that notice~~
685 is effective as of the date of mailing if:

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

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

692 (c)1. The person who served the notice maintains a
693 registered or certified mail log that shows the registered or
694 certified mail number issued by the United States Postal
695 Service, the name and address of the person served, and the date
696 stamp of the United States Postal Service confirming the date of
697 mailing; or ~~if~~

698 2. The person who served the notice maintains electronic
699 tracking records generated by ~~through use of~~ the United States
700 Postal Service ~~Confirm service or a similar service~~ containing

701 the postal tracking number, the name and address of the person
 702 served, and verification of the date of receipt by the United
 703 States Postal Service.

704 (3) (a) Service of ~~If~~ an instrument ~~served~~ pursuant to this
 705 section is effective on the date of mailing the instrument if
 706 it:

707 1. Is sent to the last address shown in the notice of
 708 commencement or any amendment thereto or, in the absence of a
 709 notice of commencement, to the last address shown in the
 710 building permit application, or to the last known address of the
 711 person to be served; ~~and, is not received, but~~

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

716 (b) If the address shown in the notice of commencement or
 717 any amendment to the notice of commencement, or, in the absence
 718 of a notice of commencement, in the building permit application,
 719 is incomplete for purposes of mailing or delivery, the person
 720 serving the item may complete the address and properly format it
 721 according to United States Postal Service addressing standards
 722 using information obtained from the property appraiser or
 723 another public record without affecting the validity of service
 724 under this section.

725 (4) A notice served by a lienor on one owner or one
 726 partner of a partnership owning the real property ~~If the real~~
 727 ~~property is owned by more than one person or a partnership, a~~
 728 ~~lienor may serve any notices or other papers under this part on~~

729 ~~any one of such owners or partners, and such notice~~ is deemed
 730 notice to all owners and partners.

731 Section 10. Section 713.22, Florida Statutes, is amended
 732 to read:

733 713.22 Duration of lien.—

734 (1) A ~~No~~ lien provided by this part does not ~~shall~~
 735 continue for a longer period than 1 year after the claim of lien
 736 has been recorded or 1 year after the recording of an amended
 737 claim of lien that shows a later date of final furnishing of
 738 labor, services, or materials, unless within that time an action
 739 to enforce the lien is commenced in a court of competent
 740 jurisdiction. A lien that has been continued beyond the 1-year
 741 period ~~The continuation of the lien effected~~ by the commencement
 742 of an ~~the~~ action is ~~shall~~ not enforceable ~~be good~~ against
 743 creditors or subsequent purchasers for a valuable consideration
 744 and without notice, unless a notice of lis pendens is recorded.

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

751
 752 NOTICE OF CONTEST OF LIEN
 753

754 To: ... (Name and address of lienor) ...
 755

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

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

762
 763 Signed: ...(Owner or Attorney)...
 764

765 The lien of any lienor upon whom such notice is served and who
 766 fails to institute a suit to enforce his or her lien within 60
 767 days after service of such notice shall be extinguished
 768 automatically. The clerk shall serve, in accordance with s.
 769 713.18, mail a copy of the notice of contest to the lien
 770 claimant at the address shown in the claim of lien or most
 771 recent amendment thereto and shall certify to such service and
 772 the date of service on the face of the ~~such~~ notice and record
 773 the notice. ~~Service shall be deemed complete upon mailing.~~

774 Section 11. Paragraphs (c), (d), (e), and (f) of
 775 subsection (1) and subsections (2) and (4) of section 713.23,
 776 Florida Statutes, are amended to read:

777 713.23 Payment bond.—

778 (1)

779 (c) ~~Either~~ Before beginning or within 45 days after
 780 beginning to furnish labor, materials, or supplies, a lienor who
 781 is not in privity with the contractor, except a laborer, shall
 782 serve the contractor with notice in writing that the lienor will
 783 look to the contractor's bond for protection on the work. If a
 784 notice of commencement with the attached bond is not recorded

785 before commencement of construction, ~~or a reference to the bond~~
 786 ~~is not given in the notice of commencement, and in either case~~
 787 ~~if the lienor not in privity with the contractor is not~~
 788 ~~otherwise notified in writing of the existence of the bond, the~~
 789 lienor not in privity with the contractor may, in the
 790 alternative, elect to serve the notice to the contractor up to
 791 ~~shall have 45 days~~ after from the date the lienor is served with
 792 a copy notified of the existence of the bond within which to
 793 ~~serve the notice.~~ A notice to owner pursuant to s. 713.06 that
 794 has been timely served on the contractor satisfies the
 795 requirements of this paragraph. However, the limitation period
 796 for commencement of an action on the payment bond as established
 797 in paragraph (e) may not be expanded. The notice may be in
 798 substantially the following form and may be combined with a
 799 notice to owner given under s. 713.06 and, if so, may be
 800 entitled "NOTICE TO OWNER/NOTICE TO CONTRACTOR:"

801
 802 NOTICE TO CONTRACTOR

803
 804 To ... (name and address of contractor) ...

805
 806 The undersigned hereby informs you that he or she has furnished
 807 or is furnishing services or materials as follows:

808
 809 ...(general description of services or materials)... for the
 810 improvement of the real property identified as ...(property
 811 description)... under an order given by ...(lienor's
 812 customer)....

813
 814 This notice is to inform you that the undersigned intends to
 815 look to the contractor's bond to secure payment for the
 816 furnishing of materials or services for the improvement of the
 817 real property.

818
 819 ...(name of lienor)...
 820 ...(signature of lienor or lienor's representative)...
 821 ...(date)...
 822 ...(lienor's address)...

823
 824 ~~The undersigned notifies you that he or she has furnished or is~~
 825 ~~furnishing ...(services or materials)... for the improvement of~~
 826 ~~the real property identified as ...(property description)...~~
 827 ~~owned by ...(owner's name and address)... under an order given~~
 828 ~~by and that the undersigned will look to the contractor's~~
 829 ~~bond for protection on the work.~~

830
 831 ~~...(Lienor's signature and address)...~~

832
 833 (d) In addition, a lienor is required, as a condition
 834 precedent to recovery under the bond, to serve a written notice
 835 of nonpayment to the contractor and the surety not later than 90
 836 days after the final furnishing of labor, services, or materials
 837 by the lienor. A written notice satisfies this condition
 838 precedent with respect to the payment described in the notice of
 839 nonpayment, including unpaid finance charges due under the
 840 lienor's contract, and with respect to any other payments which

841 become due to the lienor after the date of the notice of
 842 nonpayment. The time period for serving a written notice of
 843 nonpayment shall be measured from the last day of furnishing
 844 labor, services, or materials by the lienor and shall not be
 845 measured by other standards, such as the issuance of a
 846 certificate of occupancy or the issuance of a certificate of
 847 substantial completion. The failure of a lienor to receive
 848 retainage sums not in excess of 10 percent of the value of
 849 labor, services, or materials furnished by the lienor is not
 850 considered a nonpayment requiring the service of the notice
 851 provided under this paragraph. If the payment bond is not
 852 recorded before commencement of construction, the time period
 853 for the lienor to serve a notice of nonpayment may at the option
 854 of the lienor be calculated from the date specified in this
 855 section or the date the lienor is served a copy of the bond.
 856 However, the limitation period for commencement of an action on
 857 the payment bond as established in paragraph (e) may not be
 858 expanded. The notice under this paragraph may be in
 859 substantially the following form:

860
 861 NOTICE OF NONPAYMENT

862
 863 To ... (name of contractor and address) ...

864
 865 ... (name of surety and address) ...

866
 867 The undersigned notifies you that he or she has furnished
 868 ... (describe labor, services, or materials) ... for the

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869 improvement of the real property identified as ...(property
870 description).... The amount now due and unpaid is \$.....

871
872 ... (signature and address of lienor)...

873
874 (e) An ~~No~~ action for the labor or materials or supplies
875 may not be instituted or prosecuted against the contractor or
876 surety unless both notices have been given, if required by this
877 section. An ~~No~~ action may not ~~shall~~ be instituted or prosecuted
878 against the contractor or against the surety on the bond under
879 this section after 1 year from the performance of the labor or
880 completion of delivery of the materials and supplies. The time
881 period for bringing an action against the contractor or surety
882 on the bond shall be measured from the last day of furnishing
883 labor, services, or materials by the lienor. The time period ~~and~~
884 may ~~shall~~ not be measured by other standards, such as the
885 issuance of a certificate of occupancy or the issuance of a
886 certificate of substantial completion. A contractor or the
887 contractor's ~~agent or~~ attorney may elect to shorten the
888 ~~prescribed~~ time within which an action to enforce any claim
889 against a payment bond provided under this section or s. 713.245
890 must ~~may~~ be commenced at any time after a notice of nonpayment,
891 if required, has been served for the claim by recording in the
892 clerk's office a notice in substantially the following form:

893
894 NOTICE OF CONTEST OF CLAIM
895 AGAINST PAYMENT BOND
896

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

898

899 You are notified that the undersigned contests your notice
 900 of nonpayment, dated,, and served on the undersigned
 901 on,, and that the time within which you may file suit
 902 to enforce your claim is limited to 60 days from the date of
 903 service of this notice.

904

905 DATED on,

906

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

908

909 The claim of any lienor upon whom the notice is served and who
 910 fails to institute a suit to enforce his or her claim against
 911 the payment bond within 60 days after service of the notice
 912 shall be extinguished automatically. The contractor or the
 913 contractor's attorney ~~clerk~~ shall serve ~~mail~~ a copy of the
 914 notice of contest to the lienor at the address shown in the
 915 notice of nonpayment or most recent amendment thereto and shall
 916 certify to such service on the face of the notice and record the
 917 notice. ~~Service is complete upon mailing.~~

918 (f) A ~~Any~~ lienor has a direct right of action on the bond
 919 against the surety. Any provision in a payment bond which
 920 further restricts ~~A bond must not contain any provisions~~
 921 ~~restricting~~ the classes of persons who are protected by the
 922 payment bond, which restricts ~~thereby or~~ the venue of any
 923 proceeding relating to such payment bond, which limits or
 924 expands the effective duration of the payment bond, or which

925 adds conditions precedent to the enforcement of a claim against
 926 a payment bond beyond those provided in this part is
 927 unenforceable. The surety is not entitled to the defense of pro
 928 tanto discharge as against any lienor because of changes or
 929 modifications in the contract to which the surety is not a
 930 party; but the liability of the surety may not be increased
 931 beyond the penal sum of the bond. A lienor may not waive in
 932 advance his or her right to bring an action under the bond
 933 against the surety.

934 (2) The bond shall secure every lien under the direct
 935 contract accruing subsequent to its execution and delivery,
 936 except that of the contractor. Every claim of lien, except that
 937 of the contractor, filed subsequent to execution and delivery of
 938 the bond shall be transferred to it with the same effect as
 939 liens transferred under s. 713.24. Record notice of the transfer
 940 shall be effected by the contractor, or any person having an
 941 interest in the property against which the claim of lien has
 942 been asserted, by recording in the clerk's office a notice, with
 943 the bond attached, in substantially the following form:

944
 945 NOTICE OF BOND

946
 947 To ... (Name and Address of Lienor)...

948
 949 You are notified that the claim of lien filed by you on,
 950, and recorded in Official Records Book at page of
 951 the public records of County, Florida, is secured by a
 952 bond, a copy being attached.

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953
954 Signed: ...(Name of person recording notice)...

955
956 The notice shall be verified. The person recording the notice of
957 bond clerk shall serve mail a copy of the notice with a copy of
958 the bond to the lienor at the address shown in the claim of
959 lien, or the most recent amendment to it; shall certify to the
960 service on the face of the notice; and shall record the notice.
961 ~~The clerk shall receive the same fee as prescribed in s.~~
962 ~~713.24(1) for certifying to a transfer of lien.~~

963 (4) The provisions of s. 713.24(3) ~~shall~~ apply to bonds
964 under this section except when those provisions conflict with
965 this section.

966 Section 12. This act shall take effect October 1, 2012.