

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Toledo offered the following:

Amendment (with directory and title amendments)

5 Remove lines 185-758 and insert:

6 (b) When a person is required to execute a waiver of his
7 or her right to make a claim against the payment bond in
8 exchange for, or to induce payment of, a progress payment, the
9 waiver must ~~may~~ be in substantially the following form:

10 WAIVER OF RIGHT TO CLAIM
11 AGAINST THE PAYMENT BOND
12 (PROGRESS PAYMENT)

13 The undersigned, in consideration of the sum of \$.....,
14 hereby waives its right to claim against the payment bond for
15 labor, services, or materials furnished through ...(insert
16 date)... to ...(insert the name of your customer)... on the job

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17 of ...(insert the name of the owner)..., for improvements to the
18 following described project:

19 (description of project)

20 This waiver does not cover any retention or any labor, services,
21 or materials furnished after the date specified.

22 DATED ON,

23 ... (Claimant)...

24 By:.....

25 (c) When a person is required to execute a waiver of his
26 or her right to make a claim against the payment bond, in
27 exchange for, or to induce payment of, the final payment, the
28 waiver must ~~may~~ be in substantially the following form:

29 WAIVER OF RIGHT TO CLAIM

30 AGAINST THE PAYMENT BOND

31 (FINAL PAYMENT)

32 The undersigned, in consideration of the final payment in
33 the amount of \$...., hereby waives its right to claim against
34 the payment bond for labor, services, or materials furnished to
35 ...(insert the name of your customer)... on the job of
36 ...(insert the name of the owner)..., for improvements to the
37 following described project:

38 (description of project)

39 DATED ON,

40 ... (Claimant)...

41 By:.....

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42 (d) A person may not require a claimant to provide ~~furnish~~
43 a waiver that is different from the forms in paragraphs (b) and
44 (c).

45 ~~(f) A waiver that is not substantially similar to the~~
46 ~~forms in this subsection is enforceable in accordance with its~~
47 ~~terms.~~

48 (12) Unless otherwise provided in this section, service of
49 any document must be made in accordance with s. 713.18.

50 Section 2. Paragraph (c) of subsection (1) of section
51 337.18, Florida Statutes, is amended, and subsection (6) is
52 added to that section, to read:

53 337.18 Surety bonds for construction or maintenance
54 contracts; requirement with respect to contract award; bond
55 requirements; defaults; damage assessments.-

56 (1)

57 (c) A claimant, except a laborer, who is not in privity
58 with the contractor shall, before commencing or not later than
59 90 days after commencing to furnish labor, materials, or
60 supplies for the prosecution of the work, furnish the contractor
61 with a notice that he or she intends to look to the bond for
62 protection. A claimant who is not in privity with the contractor
63 and who has not received payment for his or her labor,
64 materials, or supplies shall deliver to the contractor and to
65 the surety written notice of the performance of the labor or
66 delivery of the materials or supplies and of the nonpayment. The

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67 notice of nonpayment may be served at any time during the
68 progress of the work or thereafter but not before 45 days after
69 the first furnishing of labor, services, or materials, and not
70 later than 90 days after the final furnishing of the labor,
71 services, or materials by the claimant or, with respect to
72 rental equipment, not later than 90 days after the date that the
73 rental equipment was last on the job site available for use. An
74 action by a claimant, except a laborer, who is not in privity
75 with the contractor for the labor, materials, or supplies may
76 not be instituted against the contractor or the surety unless
77 both notices have been given. Written notices required or
78 permitted under this section must ~~may~~ be served in accordance
79 with any manner provided in s. 713.18, and provisions for the
80 waiver of a claim or a right to claim against a payment bond
81 contained in s. 713.235 apply to all contracts under this
82 section.

83 (6) Unless otherwise provided in this section, service of
84 any document must be made in accordance with s. 713.18.

85 Section 3. Subsections (4), (8), and (26) of section
86 713.01, Florida Statutes, are amended to read:

87 713.01 Definitions.—As used in this part, the term:

88 (4) "Clerk's office" means the office of the clerk of the
89 circuit court of the county, or another office serving as the
90 county recorder as provided by law, in which the real property
91 is located.

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92 (8) "Contractor" means a person other than a materialman
93 or laborer who enters into a contract with the owner of real
94 property for improving it, or who takes over from a contractor
95 as so defined the entire remaining work under such contract. The
96 term "contractor" includes an architect, landscape architect, or
97 engineer who improves real property pursuant to a design-build
98 contract authorized by s. 489.103(16). The term also includes a
99 licensed general contractor or building contractor, as those
100 terms are defined in s. 489.105(3)(a) and (b), respectively, who
101 provides construction management services, which include
102 responsibility for scheduling and coordination in both
103 preconstruction and construction phases and for the successful,
104 timely, and economical completion of the construction project,
105 or who provides program management services, which include
106 responsibility for schedule control, cost control, and
107 coordination in providing or procuring planning, design, and
108 construction.

109 (26) "Real property" means the land that is improved and
110 the improvements thereon, including fixtures, except any such
111 property owned by the state or any county, municipality, school
112 board, or governmental agency, commission, or political
113 subdivision. The term includes a private leasehold interest that
114 is improved, and the improvements thereon, on land that is owned
115 by the state or any county, municipality, school board, or
116 governmental agency, commission, or political subdivision.

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117 Section 4. Section 713.09, Florida Statutes, is amended to
118 read:

119 713.09 Single claim of lien.—A lienor may ~~is required to~~
120 record only one claim of lien covering his or her entire demand
121 against the real property when the amount demanded is for labor
122 or services or material furnished for more than one improvement
123 under the same direct contract or multiple direct contracts. The
124 single claim of lien is sufficient even though the improvement
125 is for one or more improvements located on separate lots,
126 parcels, or tracts of land. If materials to be used on one or
127 more improvements on separate lots, parcels, or tracts of land
128 ~~under one direct contract~~ are delivered by a lienor to a place
129 designated by the person with whom the materialman contracted,
130 other than the site of the improvement, the delivery to the
131 place designated is prima facie evidence of delivery to the site
132 of the improvement and incorporation in the improvement. The
133 single claim of lien may be limited to a part of multiple lots,
134 parcels, or tracts of land and their improvements or may cover
135 all of the lots, parcels, or tracts of land and improvements. If
136 a ~~In each~~ claim of lien under this section is for multiple
137 direct contracts, the owner under the direct contracts ~~contract~~
138 must be the same person for all lots, parcels, or tracts of land
139 against which a single claim of lien is recorded.

140 Section 5. Paragraph (b) of subsection (2) of section
141 713.10, Florida Statutes, is amended, and subsection (4) is

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142 added to that section, to read:

143 713.10 Extent of liens.—

144 (2)

145 (b) The interest of the lessor is not subject to liens for
146 improvements made by the lessee when:

147 1. The lease, or a short form or a memorandum of the lease
148 that contains the specific language in the lease prohibiting
149 such liability, is recorded in the official records of the
150 county where the premises are located before the recording of a
151 notice of commencement for improvements to the premises and the
152 terms of the lease expressly prohibit such liability; or

153 2. The terms of the lease expressly prohibit such
154 liability, and a notice advising that leases for the rental of
155 premises on a parcel of land prohibit such liability has been
156 recorded in the official records of the county in which the
157 parcel of land is located before the recording of a notice of
158 commencement for improvements to the premises, and the notice
159 includes the following:

160 a. The name of the lessor.

161 b. The legal description of the parcel of land to which
162 the notice applies.

163 c. The specific language contained in the various leases
164 prohibiting such liability.

165 d. A statement that all or a majority of the leases
166 entered into for premises on the parcel of land expressly

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167 prohibit such liability.

168 ~~3. The lessee is a mobile home owner who is leasing a~~
169 ~~mobile home lot in a mobile home park from the lessor.~~

170
171 A notice that is consistent with subparagraph 2. effectively
172 prohibits liens for improvements made by a lessee even if other
173 leases for premises on the parcel do not expressly prohibit
174 liens or if provisions of each lease restricting the application
175 of liens are not identical.

176 (4) The interest of the lessor is not subject to liens for
177 improvements made by the lessee when the lessee is a mobile home
178 owner who is leasing a mobile home lot in a mobile home park
179 from the lessor.

180 Section 6. Paragraphs (a), (c), and (d) of subsection (1)
181 of section 713.13, Florida Statutes, are amended to read:

182 713.13 Notice of commencement.—

183 (1) (a) Except for an improvement that is exempt under
184 ~~pursuant to~~ s. 713.02(5), an owner or the owner's authorized
185 agent before actually commencing to improve any real property,
186 or recommencing completion of any improvement after default or
187 abandonment, whether or not a project has a payment bond
188 complying with s. 713.23, shall record a notice of commencement
189 in the clerk's office and forthwith post either a certified copy
190 thereof or a notarized statement that the notice of commencement
191 has been filed for recording along with a copy thereof. The

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192 notice of commencement shall contain the following information:

193 1. A description sufficient for identification of the real
194 property to be improved. The description should include the
195 legal description of the property and also should include the
196 street address and tax folio number of the property if available
197 or, if there is no street address available, such additional
198 information as will describe the physical location of the real
199 property to be improved.

200 2. A general description of the improvement.

201 3. The name and address of the owner, the owner's interest
202 in the site of the improvement, and the name and address of the
203 fee simple titleholder, if other than such owner.

204 4. The name and address of the lessee, if the A lessee who
205 contracts for the improvements as is an owner as defined in s.
206 713.01 under s. 713.01(23) and must be listed as the owner
207 together with a statement that the ownership interest is a
208 leasehold interest.

209 5.4. The name and address of the contractor.

210 6.5. The name and address of the surety on the payment
211 bond under s. 713.23, if any, and the amount of such bond.

212 7.6. The name and address of any person making a loan for
213 the construction of the improvements.

214 8.7. The name and address within the state of a person
215 other than himself or herself who may be designated by the owner
216 as the person upon whom notices or other documents may be served

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242 b. Owner's phone number:.... ~~Owner information or Lessee~~
243 ~~information if the Lessee contracted for the improvement:~~
244 ~~a. Name and address:.....~~
245 ~~c.b.~~ Interest in property:.....
246 ~~d.e.~~ Name and address of fee simple titleholder (if
247 different from Owner listed above):.....
248 4.a. Lessee, if the lessee contracted for the improvement:
249 ...(name and address)....
250 b. Lessee's phone number:..... ~~a.~~
251 5.a. Contractor: ...(name and address)....
252 b. Contractor's phone number:.....
253 ~~6.5.~~ Surety (if applicable, a copy of the payment bond is
254 attached):
255 a. Name and address:.....
256 b. Phone number:.....
257 c. Amount of bond: \$.....
258 ~~7.a.6.a.~~ Lender: ...(name and address)....
259 b. Lender's phone number:.....
260 ~~8.7.~~ Persons within the State of Florida designated by
261 Owner upon whom notices or other documents may be served as
262 provided by Section 713.13(1)(a)8. ~~713.13(1)(a)7.~~, Florida
263 Statutes:
264 a. Name and address:.....
265 b. Phone numbers of designated persons:.....
266 ~~9.a.8.a.~~ In addition to himself or herself, Owner

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267 designates of to receive a copy of the
268 Lienor's Notice as provided in Section 713.13(1)(b), Florida
269 Statutes.

270 b. Phone number of person or entity designated by
271 owner:.....

272 ~~10.9.~~ Expiration date of notice of commencement (the
273 expiration date will be 1 year after ~~from~~ the date of recording
274 unless a different date is specified).....

275

276 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE
277 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER
278 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA
279 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS
280 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
281 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU
282 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN
283 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF
284 COMMENCEMENT.

285

286 ...(Signature of Owner or Lessee, or Owner's or Lessee's
287 Authorized Officer/Director/Partner/Manager)...

288

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

290

291 The foregoing instrument was acknowledged before me by means of

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292 physical presence or acknowledged before me by means of
293 online notarization, this day of, ... (year)...., by
294 ... (name of person)... as ... (type of authority, . . . e.g.
295 officer, trustee, attorney in fact)... for ... (name of party on
296 behalf of whom instrument was executed)....

297
298 ... (Signature of Notary Public - State of Florida)...

299
300 ... (Print, Type, or Stamp Commissioned Name of Notary Public)...

301
302 Personally Known OR Produced Identification

303
304 Type of Identification Produced.....

305 Section 7. Subsections (1), (3), and (4) of section
306 713.132, Florida Statutes, are amended to read:

307 713.132 Notice of termination.-

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

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

312 (b) The official records' ~~recording office document book~~
313 ~~and page~~ reference numbers and recording date affixed by the
314 recording office on ~~of~~ the recorded notice of commencement;

315 (c) A statement of the date as of which the notice of
316 commencement is terminated, which date may not be earlier than

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317 30 days after the notice of termination is recorded;

318 (d) A statement specifying that the notice applies to all
319 the real property subject to the notice of commencement or
320 specifying the portion of such real property to which it
321 applies;

322 (e) A statement that all lienors have been paid in full;
323 and

324 (f) A statement that the owner has, before recording the
325 notice of termination, served a copy of the notice of
326 termination ~~on the contractor and~~ on each lienor who has a
327 direct contract with the owner or who has timely served a notice
328 to owner, and a statement that the owner will serve a copy of
329 the notice of termination on each lienor who timely serves a
330 notice to owner after the notice of termination has been
331 recorded. The owner is not required to serve a copy of the
332 notice of termination on any lienor who has executed a waiver
333 and release of lien upon final payment in accordance with s.
334 713.20.

335 (3) An owner may ~~not~~ record a notice of termination at any
336 time after ~~except after completion of construction, or after~~
337 ~~construction ceases before completion and~~ all lienors have been
338 paid in full or pro rata in accordance with s. 713.06(4).

339 (4) If an owner or a contractor, by fraud or collusion,
340 knowingly makes any fraudulent statement or affidavit in a
341 notice of termination or any accompanying affidavit, the owner

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342 and the contractor, or either of them, ~~as the case may be,~~ is
343 liable to any lienor who suffers damages as a result of the
344 filing of the fraudulent notice of termination,~~†~~ and any such
345 lienor has a right of action for damages ~~occasioned thereby.~~

346 (5)(4) A notice of termination must be served before
347 recording on each lienor who has a direct contract with the
348 owner and on each lienor who has timely and properly served a
349 notice to owner in accordance with this part before the
350 recording of the notice of termination. A notice of termination
351 must be recorded in the official records of the county in which
352 the improvement is located. If properly served before recording
353 in accordance with this subsection, the notice of termination
354 terminates the period of effectiveness of the notice of
355 commencement 30 days after the notice of termination is recorded
356 in the official records ~~is effective to terminate the notice of~~
357 ~~commencement at the later of 30 days after recording of the~~
358 ~~notice of termination or a later~~ the date stated in the notice
359 of termination as the date on which the notice of commencement
360 is terminated. However, if a lienor who began work under the
361 notice of commencement before its termination lacks a direct
362 contract with the owner and timely serves his or her notice to
363 owner after the notice of termination has been recorded, the
364 owner must serve a copy of the notice of termination upon such
365 lienor, and the termination of the notice of commencement as to
366 that lienor is effective 30 days after service of the notice of

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367 ~~termination if the notice of termination has been served~~
368 ~~pursuant to paragraph (1)(f) on the contractor and on each~~
369 ~~lienor who has a direct contract with the owner or who has~~
370 ~~served a notice to owner.~~

371 Section 8. Section 713.18, Florida Statutes, is amended to
372 read:

373 713.18 Manner of serving documents ~~notices and other~~
374 ~~instruments.-~~

375 (1) Unless otherwise specifically provided by law, service
376 of any document ~~notices, claims of lien, affidavits,~~
377 ~~assignments, and other instruments~~ permitted or required under
378 this part, s. 255.05, or s. 337.18, or copies thereof when so
379 permitted or required, ~~unless otherwise specifically provided in~~
380 ~~this part,~~ must be made by one of the following methods:

381 (a) By hand ~~actual~~ delivery to the person to be served; if
382 a partnership, to one of the partners; if a corporation, to an
383 officer, director, managing agent, or business agent; or, if a
384 limited liability company, to a member or manager.

385 (b) By common carrier delivery service or by registered,
386 Global Express Guaranteed, or certified mail to the person to be
387 served, with postage or shipping paid by the sender and with
388 evidence of delivery, which may be in an electronic format.

389 (c) By posting on the site of the improvement if service
390 as provided by paragraph (a) or paragraph (b) cannot be
391 accomplished.

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392 (2) Notwithstanding subsection (1), service of a notice to
393 owner or a preliminary notice to contractor under this part, s.
394 255.05, or s. 337.18, ~~or s. 713.23~~ is effective as of the date
395 of mailing and the requirements for service under this section
396 have been satisfied if:

397 (a) The notice is mailed by registered, Global Express
398 Guaranteed, or certified mail, with postage prepaid, to the
399 person to be served and addressed as prescribed ~~at any of the~~
400 ~~addresses set forth~~ in subsection (3);

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

403 (c)1. The person who served the notice maintains a
404 registered or certified mail log that shows the registered or
405 certified mail number issued by the United States Postal
406 Service, the name and address of the person served, and the date
407 stamp of the United States Postal Service confirming the date of
408 mailing; or

409 2. The person who served the notice maintains ~~electronic~~
410 tracking records approved or generated by the United States
411 Postal Service containing the postal tracking number, ~~the name~~
412 ~~and address of the person served,~~ and verification of the date
413 of receipt by the United States Postal Service.

414 (3) (a) Notwithstanding subsection (1), service of a
415 document under an instrument pursuant to this section is
416 effective on the date of mailing or shipping, and the

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417 requirements for service under this section have been satisfied,
418 ~~the instrument if it:~~

419 1. The document is sent to the last address shown in the
420 notice of commencement or any amendment thereto or, in the
421 absence of a notice of commencement, to the last address shown
422 in the building permit application, or to the last known address
423 of the person to be served.~~;~~ and

424 2. The document is returned as being "refused," "moved,
425 not forwardable," or "unclaimed," or is otherwise not delivered
426 or deliverable through no fault of the person serving the
427 document item.

428 (b) If the address shown in the notice of commencement or
429 any amendment thereto ~~to the notice of commencement, or, in the~~
430 ~~absence of a notice of commencement, in the building permit~~
431 ~~application,~~ is incomplete for purposes of mailing or delivery,
432 the person serving the document item may complete the address
433 and properly format it according to United States Postal Service
434 addressing standards using information obtained from the
435 property appraiser or another public record without affecting
436 the validity of service under this section.

437 (4) A document notice served by a lienor on one owner or
438 one partner of a partnership owning the real property is deemed
439 served on notice ~~to~~ all owners and partners.

440 Section 9. Subsections (4), (5), (6), and (8) of section
441 713.20, Florida Statutes, are amended to read:

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442 713.20 Waiver or release of liens.-

443 (4) When a lienor is required to execute a waiver or
444 release of lien in exchange for, or to induce payment of, a
445 progress payment, the waiver or release must ~~may~~ be in
446 substantially the following form:

447 WAIVER AND RELEASE OF LIEN

448 UPON PROGRESS PAYMENT

449 The undersigned lienor, in consideration of the sum of
450 \$...., hereby waives and releases its lien and right to claim a
451 lien for labor, services, or materials furnished through
452 ...(insert date)... to ...(insert the name of your customer)...
453 on the job of ...(insert the name of the owner)... to the
454 following property:

455 ...(description of property)...

456 This waiver and release does not cover any retention or labor,
457 services, or materials furnished after the date specified.

458 DATED on, ...(year).... ...(Lienor)...

459 By:

460 (5) When a lienor is required to execute a waiver or
461 release of lien in exchange for, or to induce payment of, the
462 final payment, the waiver and release must ~~may~~ be in
463 substantially the following form:

464 WAIVER AND RELEASE OF LIEN

465 UPON FINAL PAYMENT

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491 clerk. Any person who executes a claim of lien has ~~shall have~~
492 authority to execute a satisfaction in the absence of actual
493 notice of lack of authority to any person relying on the same.

494 (2) By the satisfaction or release of the lienor, duly
495 acknowledged and recorded in the clerk's office. The
496 satisfaction or release must include the lienor's notarized
497 signature and set forth the official records' reference numbers
498 and recording date affixed by the recording office on the
499 subject lien. Any person who executes a claim of lien has ~~shall~~
500 ~~have~~ authority to execute a satisfaction or release in the
501 absence of actual notice of lack of authority to any person
502 relying on the same.

503 (3) By failure to begin an action to enforce the lien
504 within the time prescribed in this part.

505 (4) By an order of the circuit court of the county where
506 the property is located, as provided in this subsection. Upon
507 filing a complaint therefor by any interested party the clerk
508 shall issue a summons to the lienor to show cause within 20 days
509 why his or her lien should not be enforced by action or vacated
510 and canceled of record. Upon failure of the lienor to show cause
511 why his or her lien should not be enforced or the lienor's
512 failure to commence such action before the return date of the
513 summons the court shall forthwith order cancellation of the
514 lien.

515 (5) By recording in the clerk's office the original or a

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516 certified copy of a judgment or decree of a court of competent
517 jurisdiction showing a final determination of the action.

518 Section 11. Paragraph (d) of subsection (1) of section
519 713.23, Florida Statutes, is amended to read:

520 713.23 Payment bond.—

521 (1)

522 (d) In addition, a lienor who has not received payment for
523 furnishing his or her labor, services, or materials must, as a
524 condition precedent to recovery under the bond, serve a written
525 notice of nonpayment on ~~to~~ the contractor and a copy of the
526 notice on the surety. The notice must be under oath and served
527 during the progress of the work or thereafter, but may not be
528 served later than 90 days after the final furnishing of labor,
529 services, or materials by the lienor, or, with respect to rental
530 equipment, later than 90 days after the date the rental
531 equipment was on the job site and available for use. A notice of
532 nonpayment that includes sums for retainage must specify the
533 portion of the amount claimed for retainage. The required notice
534 satisfies this condition precedent with respect to the payment
535 described in the notice of nonpayment, including unpaid finance
536 charges due under the lienor's contract, and with respect to any
537 other payments which become due to the lienor after the date of
538 the notice of nonpayment. The time period for serving a notice
539 of nonpayment is ~~shall be~~ measured from the last day of
540 furnishing labor, services, or materials by the lienor and may

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541 not be measured by other standards, such as the issuance of a
542 certificate of occupancy or the issuance of a certificate of
543 substantial completion. The failure of a lienor to receive
544 retainage sums not in excess of 10 percent of the value of
545 labor, services, or materials furnished by the lienor is not
546 considered a nonpayment requiring the service of the notice
547 provided under this paragraph. If the payment bond is not
548 recorded before commencement of construction, the time period
549 for the lienor to serve a notice of nonpayment may at the option
550 of the lienor be calculated from the date specified in this
551 section or the date the lienor is served a copy of the bond.
552 However, the limitation period for commencement of an action on
553 the payment bond as established in paragraph (e) may not be
554 expanded. The negligent inclusion or omission of any information
555 in the notice of nonpayment that has not prejudiced the
556 contractor or surety does not constitute a default that operates
557 to defeat an otherwise valid bond claim. A lienor who serves a
558 fraudulent notice of nonpayment forfeits his or her rights under
559 the bond. A notice of nonpayment is fraudulent if the lienor has
560 willfully exaggerated the amount unpaid, willfully included a
561 claim for work not performed or materials not furnished for the
562 subject improvement, or prepared the notice with such willful
563 and gross negligence as to amount to a willful exaggeration.
564 However, a minor mistake or error in a notice of nonpayment, or
565 a good faith dispute as to the amount unpaid, does not

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566 constitute a willful exaggeration that operates to defeat an
567 otherwise valid claim against the bond. The service of a
568 fraudulent notice of nonpayment is a complete defense to the
569 lienor's claim against the bond. The notice under this paragraph
570 must include the following information, current as of the date
571 of the notice, and must be in substantially the following form:

572
573 NOTICE OF NONPAYMENT

574
575 To ...(name of contractor and address)...

576
577 ...(name of surety and address)...

578
579 The undersigned lienor notifies you that:

580 1. The lienor has furnished ...(describe labor, services,
581 or materials)... for the improvement of the real property
582 identified as ...(property description).... The corresponding
583 amount unpaid to date is \$...., of which \$.... is unpaid
584 retainage.

585 2. The lienor has been paid to date the amount of \$....
586 for previously furnishing ...(describe labor, services, or
587 materials)... for this improvement.

588 3. The lienor expects to furnish ...(describe labor,
589 services, or materials)... for this improvement in the future
590 (if known), and the corresponding amount expected to become due

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591 is \$.... (if known).

592

593 I declare that I have read the foregoing Notice of Nonpayment
594 and that the facts stated in it are true to the best of my
595 knowledge and belief.

596

597 DATED on,

598

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

600

601 STATE OF FLORIDA

602 COUNTY OF.....

603

604 The foregoing instrument was sworn to (or affirmed) and
605 subscribed before me by means of physical presence or sworn to
606 (or affirmed) by online notarization, this day of,
607 ... (year)...., by ... (name of signatory)....

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

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

611

612 Personally Known OR Produced Identification

613

614 Type of Identification Produced

615 Section 12. Section 713.235, Florida Statutes, is amended

Amendment No.1

616 to read:

617 713.235 Waivers of right to claim against payment bond;
618 forms.-

619 (1) When a person is required to execute a waiver of his
620 or her right to make a claim against a payment bond provided
621 under ~~pursuant to~~ s. 713.23 or s. 713.245, in exchange for, or
622 to induce payment of, a progress payment, the waiver must ~~may~~ be
623 in substantially the following form:

624 WAIVER OF RIGHT TO CLAIM

625 AGAINST THE PAYMENT BOND

626 (PROGRESS PAYMENT)

627 The undersigned, in consideration of the sum of \$....
628 hereby waives its right to claim against the payment bond for
629 labor, services, or materials furnished through ...(insert
630 date)..., to ...(insert the name of your customer)... on the job
631 of ...(insert the name of the owner)..., for improvements to the
632 following described project:

633 (description of project)

634 This waiver does not cover any retention or any labor, services,
635 or materials furnished after the date specified.

636 DATED on

637 ... (Lienor) ...

638 By:.....

639 (2) When a person is required to execute a waiver of his
640 or her right to make a claim against a payment bond provided

Amendment No.1

641 ~~under pursuant to~~ s. 713.23 or s. 713.245, in exchange for, or
642 to induce payment of, the final payment, the waiver must ~~may~~ be
643 in substantially the following form:

644 WAIVER OF RIGHT TO CLAIM
645 AGAINST THE PAYMENT BOND
646 (FINAL PAYMENT)

647 The undersigned, in consideration of the final payment in
648 the amount of \$...., hereby waives its right to claim against
649 the payment bond for labor, services, or materials furnished to
650 ...(insert the name of your customer)... on the job of
651 ...(insert the name of the owner)..., for improvements to the
652 following described project:

653 (description of project)

654 DATED on

655 ...(Lienor)...

656 By:.....

657 (3) A person may not require a claimant to provide ~~furnish~~
658 a waiver that is different from the forms in subsections (1) and
659 (2).

660 (4) A person who executes a waiver in exchange for a check
661 may condition the waiver on payment of the check.

662 ~~(5) A waiver that is not substantially similar to the~~
663 ~~forms in this section is enforceable in accordance with its~~
664 ~~terms.~~

665 -----

Amendment No.1

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D I R E C T O R Y A M E N D M E N T

Remove line 48 and insert:

Section 1. Paragraphs (a) through (d) and (f) of
subsection (2)

T I T L E A M E N D M E N T

Remove lines 6-41 and insert:

requiring specified waivers to be in a certain form;
requiring service of documents to be made in a
specified manner; amending s. 337.18, F.S.; providing
that certain waivers apply to certain contracts;
requiring service of documents to be made in a
specified manner; amending s. 713.01, F.S.; revising
definitions; amending s. 713.09, F.S.; authorizing a
lienor to record one claim of lien for multiple direct
contracts; amending s. 713.10, F.S.; revising the
extent of certain liens; amending s. 713.13, F.S.;
revising information to be included in a notice of
commencement; revising the process for notarizing a
notice of commencement; amending s. 713.132, F.S.;
revising requirements for a notice of termination;
amending s. 713.18, F.S.; requiring service of
documents relating to construction bonds to be made in
a specified manner; making technical changes; amending

Amendment No.1

691 s. 713.20, F.S.; requiring specified waivers or
692 releases to be in a certain form; amending s. 713.21,
693 F.S.; authorizing the full or partial release of a
694 lien under specified conditions; amending s. 713.23,
695 F.S.; requiring that a copy of a notice of nonpayment
696 be served on the surety; revising the process for
697 notarizing a notice of nonpayment under a payment
698 bond; amending s. 713.235, F.S.; requiring specified
699 waivers to be in a certain form;