

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	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

1 Committee/Subcommittee hearing bill: Civil Justice & Property
2 Rights Subcommittee
3 Representative Overdorf offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
7 Section 1. Subsections (8) through (11) of section 255.05,
8 Florida Statutes, are renumbered as subsections (7) through
9 (10), respectively, paragraph (a) of subsection (2) and present
10 subsections (6) and (7) are amended, and a new subsection (11)
11 is added to that section, to read:

12 255.05 Bond of contractor constructing public buildings;
13 form; action by claimants.-

14 (2)(a)1. If a claimant is no longer furnishing labor,
15 services, or materials on a project, a contractor or the
16 contractor's agent or attorney may elect to shorten the time
17 within which an action to enforce any claim against a payment

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18 | bond must be commenced by recording in the clerk's office a
19 | notice in substantially the following form:

20 |

21 | NOTICE OF CONTEST OF CLAIM

22 | AGAINST PAYMENT BOND

23 |

24 | To: ... (Name and address of claimant) ...

25 |

26 | You are notified that the undersigned contests your notice
27 | of nonpayment, dated,, and served on the
28 | undersigned on,, and that the time within
29 | which you may file suit to enforce your claim is limited to 60
30 | days after the date of service of this notice.

31 |

32 | DATED on,

33 |

34 | Signed: ... (Contractor or Attorney) ...

35 |

36 | The claim of a claimant upon whom such notice is served and who
37 | fails to institute a suit to enforce his or her claim against
38 | the payment bond within 60 days after service of such notice is
39 | extinguished automatically. The contractor or the contractor's
40 | attorney shall serve a copy of the notice of contest on ~~to~~ the
41 | claimant at the address shown in the notice of nonpayment or
42 | most recent amendment thereto and shall certify to such service

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43 on the face of the notice and record the notice.

44 2. A claimant, except a laborer, who is not in privity
45 with the contractor shall, before commencing or not later than
46 45 days after commencing to furnish labor, services, or
47 materials for the prosecution of the work, serve the contractor
48 with a written notice that he or she intends to look to the bond
49 for protection. If the payment bond is not recorded before the
50 commencement of work or before the recommencement of work after
51 a default or abandonment if applicable, as required by s.
52 225.05(1)(b), then the claimant may serve the contractor with
53 such written notice up to 45 days after the date that the
54 claimant is served with a copy of the bond. A claimant who is
55 not in privity with the contractor and who has not received
56 payment for furnishing his or her labor, services, or materials
57 shall serve a written notice of nonpayment on the contractor and
58 a copy of the notice on the surety. The notice of nonpayment
59 must ~~shall~~ be under oath and served during the progress of the
60 work or thereafter but may not be served earlier than 30 ~~45~~ days
61 after the first furnishing of labor, services, or materials by
62 the claimant or later than 90 days after the final furnishing of
63 the labor, services, or materials by the claimant or, with
64 respect to rental equipment, later than 90 days after the date
65 that the rental equipment was last on the ~~job~~ site of the
66 improvement available for use. Any notice of nonpayment served
67 by a claimant who is not in privity with the contractor which

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68 includes sums for retainage must specify the portion of the
69 amount claimed for retainage. An action for the labor, services,
70 or materials may not be instituted against the contractor or the
71 surety unless the notice to the contractor and notice of
72 nonpayment have been served, if required by this section.
73 Notices required or permitted under this section must be served
74 in accordance with s. 713.18. A claimant may not waive in
75 advance his or her right to bring an action under the bond
76 against the surety. In any action brought to enforce a claim
77 against a payment bond under this section, the prevailing party
78 is entitled to recover a reasonable fee for the services of his
79 or her attorney for trial and appeal or for arbitration, in an
80 amount to be determined by the court or arbitrator, which fee
81 must be taxed as part of the prevailing party's costs, as
82 allowed in equitable actions. The time periods for service of a
83 notice of nonpayment or for bringing an action against a
84 contractor or a surety are ~~shall be~~ measured from the last day
85 of furnishing labor, services, or materials by the claimant and
86 may not be measured by other standards, such as the issuance of
87 a certificate of occupancy or the issuance of a certificate of
88 substantial completion. The negligent inclusion or omission of
89 any information in the notice of nonpayment that has not
90 prejudiced the contractor or surety does not constitute a
91 default that operates to defeat an otherwise valid bond claim. A
92 claimant who serves a fraudulent notice of nonpayment forfeits

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93 his or her rights under the bond. A notice of nonpayment is
94 fraudulent if the claimant has willfully exaggerated the amount
95 unpaid, willfully included a claim for work not performed or
96 materials not furnished for the subject improvement, or prepared
97 the notice with such willful and gross negligence as to amount
98 to a willful exaggeration. However, a minor mistake or error in
99 a notice of nonpayment, or a good faith dispute as to the amount
100 unpaid, does not constitute a willful exaggeration that operates
101 to defeat an otherwise valid claim against the bond. The service
102 of a fraudulent notice of nonpayment is a complete defense to
103 the claimant's claim against the bond. The notice of nonpayment
104 under this subparagraph must include the following information,
105 current as of the date of the notice, and must be in
106 substantially the following form:

107
108 NOTICE OF NONPAYMENT109
110 To: ...(name of contractor and address)...111
112 ...(name of surety and address)...113
114 The undersigned claimant notifies you that:115 1. Claimant has furnished ...(describe labor, services, or
116 materials)... for the improvement of the real property
117 identified as ...(property description).... The corresponding

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118 amount unpaid to date is \$...., of which \$.... is unpaid
119 retainage.

120 2. Claimant has been paid to date the amount of \$.... for
121 previously furnishing ...(describe labor, services, or
122 materials)... for this improvement.

123 3. Claimant expects to furnish ...(describe labor,
124 services, or materials)... for this improvement in the future
125 (if known), and the corresponding amount expected to become due
126 is \$.... (if known).

127
128 I declare that I have read the foregoing Notice of Nonpayment
129 and that the facts stated in it are true to the best of my
130 knowledge and belief.

131
132 DATED on,

133
134 ... (signature and address of claimant)...

135
136 STATE OF FLORIDA
137 COUNTY OF

138
139 The foregoing instrument was sworn to (or affirmed) and
140 subscribed before me by means of physical presence or sworn to
141 (or affirmed) by online notarization this day of,
142 ...(year)..., by ...(name of signatory)....

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143
144 ...(Signature of Notary Public - State of Florida)...
145 ...(Print, Type, or Stamp Commissioned Name of Notary
146 Public)...

147
148 Personally Known OR Produced Identification

149
150 Type of Identification Produced

151 (6) All payment bond forms used by a public owner and all
152 payment bonds executed pursuant to this section by a surety
153 shall make reference to this section by number, shall contain
154 reference to the notice and time limitation provisions in
155 subsections (2) and (9)~~(10)~~, and shall comply with the
156 requirements of paragraph (1)(a).

157 ~~(7) In lieu of the bond required by this section, a~~
158 ~~contractor may file with the state, county, city, or other~~
159 ~~political authority an alternative form of security in the form~~
160 ~~of cash, a money order, a certified check, a cashier's check, an~~
161 ~~irrevocable letter of credit, or a security of a type listed in~~
162 ~~part II of chapter 625. Any such alternative form of security~~
163 ~~shall be for the same purpose and be subject to the same~~
164 ~~conditions as those applicable to the bond required by this~~
165 ~~section. The determination of the value of an alternative form~~
166 ~~of security shall be made by the appropriate state, county,~~
167 ~~city, or other political subdivision.~~

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168 (11) Unless otherwise provided in this section, service of
169 any document must be made in accordance with s. 713.18.

170 Section 2. Paragraph (c) of subsection (1) of section
171 337.18, Florida Statutes, is amended, and subsection (6) is
172 added to that section, to read:

173 337.18 Surety bonds for construction or maintenance
174 contracts; requirement with respect to contract award; bond
175 requirements; defaults; damage assessments.—

176 (1)

177 (c) A claimant, except a laborer, who is not in privity
178 with the contractor shall, before commencing or not later than
179 90 days after commencing to furnish labor, materials, or
180 supplies for the prosecution of the work, furnish the contractor
181 with a notice that he or she intends to look to the bond for
182 protection. A claimant who is not in privity with the contractor
183 and who has not received payment for his or her labor,
184 materials, or supplies shall deliver to the contractor and to
185 the surety written notice of the performance of the labor or
186 delivery of the materials or supplies and of the nonpayment. The
187 notice of nonpayment may be served at any time during the
188 progress of the work or thereafter but not before 30 ~~45~~ days
189 after the first furnishing of labor, services, or materials, and
190 not later than 90 days after the final furnishing of the labor,
191 services, or materials by the claimant or, with respect to
192 rental equipment, not later than 90 days after the date that the

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193 rental equipment was last on the ~~job~~ site of the improvement
194 available for use. An action by a claimant, except a laborer,
195 who is not in privity with the contractor for the labor,
196 materials, or supplies may not be instituted against the
197 contractor or the surety unless both notices have been given.
198 Written notices required or permitted under this section must
199 may be served in accordance with ~~any manner provided in s.~~
200 713.18.

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

203 Section 3. Subsections (13) through (29) of section
204 713.01, Florida Statutes, are renumbered as subsections (14)
205 through (30), respectively, subsections (4), (8), and (12) of
206 that section are amended, and a new subsection (13) is added to
207 that section, to read:

208 713.01 Definitions.—As used in this part, the term:

209 (4) "Clerk's office" means the office of the clerk of the
210 circuit court of the county, or another office serving as the
211 county recorder as provided by law, in which the real property
212 is located.

213 (8) "Contractor" means a person other than a materialman
214 or laborer who enters into a contract with the owner of real
215 property for improving it, or who takes over from a contractor
216 as so defined the entire remaining work under such contract. The
217 term "contractor" includes an architect, landscape architect, or

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218 engineer who improves real property pursuant to a design-build
219 contract authorized by s. 489.103(16). The term also includes a
220 licensed general contractor or building contractor, as those
221 terms are defined in s. 489.105(3)(a) and (b), respectively, who
222 provides construction management services, which include
223 scheduling and coordinating both preconstruction and
224 construction phases for the successful, timely, and economical
225 completion of the construction project or who provides program
226 management services, which include schedule control, cost
227 control, and coordination in providing or procuring planning,
228 design, and construction.

229 (12) "Final furnishing" means the last date that the
230 lienor furnishes labor, services, or materials. Such date may
231 not be measured by other standards, such as the issuance of a
232 certificate of occupancy or the issuance of a certificate of
233 final completion, and does not include the correction of
234 deficiencies in the lienor's previously performed work or
235 materials supplied. With respect to rental equipment, the term
236 means the date that the rental equipment was last on the ~~job~~
237 site of the improvement and available for use. With respect to
238 specially fabricated materials, the term means the date that the
239 last portion of the specially fabricated materials is delivered
240 to the site of the improvement, or if any portion of the
241 specially fabricated materials is not delivered to the site of
242 the improvement by no fault of the lienor, the term means 90

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243 days after the date the lienor completes the fabrication or 90
244 days before the expiration of the notice of commencement,
245 whichever is earlier.

246 (13) "Finance charge" means a contractually specified
247 additional amount to be paid by the obligor on any balance that
248 remains unpaid by the due date set forth in the credit agreement
249 or other contract.

250 (28) "Specially fabricated materials" means materials
251 designed and fabricated for use in a particular improvement that
252 are not generally suited for or readily adaptable for use in a
253 like improvement.

254 Section 4. Section 713.011, Florida Statutes, is created
255 to read:

256 713.011 Computation of time.—

257 (1) In computing any time period for recording a document
258 or filing an action under this part, if the last day of the time
259 period is a Saturday, Sunday, legal holiday, or any day observed
260 as a holiday by the clerk's office, the time period is extended
261 to the end of the next business day.

262 (2) During a state of emergency declared under chapter 252
263 in which the clerk's office is closed, the time periods for
264 recording a document or filing an action under this part are
265 tolled. Upon the expiration of the declared state of emergency,
266 the number of days that were remaining for any such time period
267 on the first day of the declared state of emergency shall

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268 commence on the first business day after the expiration of the
269 declared state of emergency.

270 (3) For purposes of this subsection, a federal, state, or
271 local governmental order closing or directing the closure of the
272 clerk's office for any reason constitutes a state of emergency,
273 and a clerk's office is considered closed if it is not accepting
274 documents for recording or filing by any means.

275 Section 5. Paragraph (b) of subsection (2) of section
276 713.10, Florida Statutes, is amended, and subsection (4) is
277 added to that section, to read:

278 713.10 Extent of liens.-

279 (2)

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

282 1. The lease, or a short form or a memorandum of the lease
283 that contains the specific language in the lease prohibiting
284 such liability, is recorded in the official records of the
285 county where the premises are located before the recording of a
286 notice of commencement for improvements to the premises and the
287 terms of the lease expressly prohibit such liability; or

288 2. The terms of the lease expressly prohibit such
289 liability, and a notice advising that leases for the rental of
290 premises on a parcel of land prohibit such liability has been
291 recorded in the official records of the county in which the
292 parcel of land is located before the recording of a notice of

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293 commencement for improvements to the premises, and the notice
294 includes the following:

295 a. The name of the lessor.

296 b. The legal description of the parcel of land to which
297 the notice applies.

298 c. The specific language contained in the various leases
299 prohibiting such liability.

300 d. A statement that all or a majority of the leases
301 entered into for premises on the parcel of land expressly
302 prohibit such liability.

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

305
306 A notice that is consistent with subparagraph 2. effectively
307 prohibits liens for improvements made by a lessee even if other
308 leases for premises on the parcel do not expressly prohibit
309 liens or if provisions of each lease restricting the application
310 of liens are not identical.

311 (4) The interest of the lessor is not subject to liens for
312 improvements made by the lessee when the lessee is a mobile home
313 owner who is leasing a mobile home lot in a mobile home park
314 from the lessor.

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

317 713.13 Notice of commencement.-

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318 (1) (a) Except for an improvement that is exempt under
319 ~~pursuant to~~ s. 713.02(5), an owner or the owner's authorized
320 agent before actually commencing to improve any real property,
321 or recommencing completion of any improvement after default or
322 abandonment, whether or not a project has a payment bond
323 complying with s. 713.23, shall record a notice of commencement
324 in the clerk's office and ~~forthwith~~ post either a certified copy
325 thereof or a notarized statement that the notice of commencement
326 has been filed for recording along with a copy thereof. The
327 notice of commencement shall contain all of the following
328 information:

329 1. A description sufficient for identification of the real
330 property to be improved. The description should include the
331 legal description of the property and also should include the
332 street address and tax folio number of the property if available
333 or, if there is no street address available, such additional
334 information as will describe the physical location of the real
335 property to be improved.

336 2. A general description of the improvement.

337 3. The name and address of the owner, the owner's interest
338 in the site of the improvement, and the name and address of the
339 fee simple titleholder, if other than such owner. A lessee who
340 contracts for the improvements is an owner as defined under s.
341 713.01(23) and must be listed as the owner together with a
342 statement that the ownership interest is a leasehold interest.

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343 4. The name and address of the contractor.

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

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

348 7. The name and address within the state of a person other
349 than himself or herself who may be designated by the owner as
350 the person upon whom notices or other documents may be served
351 under this part; and service upon the person so designated
352 constitutes service upon the owner.

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

358 (c) If the contract between the owner and a contractor
359 named in the notice of commencement expresses a period of time
360 for completion for the construction of the improvement greater
361 than 1 year, the notice of commencement must state that it is
362 effective for a period of 1 year plus any additional period of
363 time. Any payments made by the owner after the expiration of the
364 notice of commencement are considered improper payments.

365 (d) A notice of commencement must be in substantially the
366 following form:

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367 Permit No..... Tax Folio No.....

368 NOTICE OF COMMENCEMENT

369 State of....

370 County of....

371 The undersigned hereby gives notice that improvement will be
372 made to certain real property, and in accordance with Chapter
373 713, Florida Statutes, the following information is provided in
374 this Notice of Commencement.

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

377 2. General description of improvement:.....

378 3. Owner information or Lessee information if the Lessee
379 contracted for the improvement:

380 a. Name and address:.....

381 b. Interest in property:.....

382 c. Name and address of fee simple titleholder (if
383 different from Owner listed above):.....

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

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

386 5. Surety (if applicable, a copy of the payment bond is
387 attached):

388 a. Name and address:.....

389 b. Phone number:.....

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

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391 6.a. Lender: ...(name and address)....
392 b. Lender's phone number:.....
393 7. Persons within the State of Florida designated by Owner
394 upon whom notices or other documents may be served as provided
395 by Section 713.13(1)(a)7., Florida Statutes:
396 a. Name and address:.....
397 b. Phone numbers of designated persons:.....
398 8.a. In addition to himself or herself, Owner designates
399 of to receive a copy of the Lienor's
400 Notice as provided in Section 713.13(1)(b), Florida Statutes.
401 b. Phone number of person or entity designated by
402 owner:.....
403 9. Expiration date of notice of commencement (the
404 expiration date will be 1 year after ~~from~~ the date of recording
405 unless a different date is specified).....
406
407 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE
408 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER
409 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA
410 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS
411 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
412 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU
413 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN
414 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF
415 COMMENCEMENT.

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

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

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

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

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

Personally Known OR Produced Identification

Type of Identification Produced.....

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

713.132 Notice of termination.-

(1) An owner may terminate the period of effectiveness of
a notice of commencement by executing, swearing to, and

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441 recording a notice of termination that contains all of the
442 following:

443 (a) The same information as the notice of commencement.~~†~~

444 (b) The official records' ~~recording office document book~~
445 ~~and page~~ reference numbers and recording date affixed by the
446 recording office on ~~of~~ the recorded notice of commencement.~~†~~

447 (c) A statement of the date as of which the notice of
448 commencement is terminated, which date may not be earlier than
449 30 days after the notice of termination is recorded.~~†~~

450 (d) A statement specifying that the notice applies to all
451 the real property subject to the notice of commencement or
452 specifying the portion of such real property to which it
453 applies.~~†~~

454 (e) A statement that all lienors have been paid in full.~~†~~
455 and

456 (f) A statement that the owner has, before recording the
457 notice of termination, served a copy of the notice of
458 termination ~~on the contractor and~~ on each lienor who has a
459 direct contract with the owner or who has timely served a notice
460 to owner, and a statement that the owner will serve a copy of
461 the notice of termination on each lienor who timely serves a
462 notice to owner after the notice of termination has been
463 recorded. The owner is not required to serve a copy of the
464 notice of termination on any lienor who has executed a waiver
465 and release of lien upon final payment in accordance with s.

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466 713.20.

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

471 (4) If an owner or a contractor, by fraud or collusion,
472 knowingly makes any fraudulent statement or affidavit in a
473 notice of termination or any accompanying affidavit, the owner
474 and the contractor, or either of them, ~~as the case may be,~~ is
475 liable to any lienor who suffers damages as a result of the
476 filing of the fraudulent notice of termination, ~~and any such~~
477 lienor has a right of action for damages ~~occasioned thereby.~~

478 (5)~~(4)~~ A notice of termination must be served before
479 recording on each lienor who has a direct contract with the
480 owner and on each lienor who has timely and properly served a
481 notice to owner in accordance with this part before the
482 recording of the notice of termination. A notice of termination
483 must be recorded in the official records of the county in which
484 the improvement is located. If properly served before recording
485 in accordance with this subsection, the notice of termination
486 terminates the period of effectiveness of the notice of
487 commencement 30 days after the notice of termination is recorded
488 in the official records ~~is effective to terminate the notice of~~
489 ~~commencement at the later of 30 days after recording of the~~
490 ~~notice of termination or a later~~ the date stated in the notice

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491 of termination as the date on which the notice of commencement
492 is terminated. However, if a lienor who began work under the
493 notice of commencement before its termination lacks a direct
494 contract with the owner and timely serves his or her notice to
495 owner after the notice of termination has been recorded, the
496 owner must serve a copy of the notice of termination upon such
497 lienor, and the termination of the notice of commencement as to
498 that lienor is effective 30 days after service of the notice of
499 termination if the notice of termination has been served
500 pursuant to paragraph (1) (f) on the contractor and on each
501 lienor who has a direct contract with the owner or who has
502 served a notice to owner.

503 Section 8. Subsections (1) and (3) of section 713.135,
504 Florida Statutes, are amended to read:

505 713.135 Notice of commencement and applicability of lien.—

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

508 (a) Print on the face of each permit card in no less than
509 14-point, capitalized, boldfaced type: "WARNING TO OWNER: YOUR
510 FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR
511 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF
512 COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE
513 THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT
514 WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF
515 COMMENCEMENT."

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516 (b) Provide the applicant and the owner of the real
517 property upon which improvements are to be constructed with a
518 printed statement stating that the right, title, and interest of
519 the person who has contracted for the improvement may be subject
520 to attachment under the Construction Lien Law. The Department of
521 Business and Professional Regulation shall furnish, for
522 distribution, the statement described in this paragraph, and the
523 statement must be a summary of the Construction Lien Law and
524 must include an explanation of the provisions of the
525 Construction Lien Law relating to the recording, and the posting
526 of copies, of notices of commencement and a statement
527 encouraging the owner to record a notice of commencement and
528 post a copy of the notice of commencement in accordance with s.
529 713.13. The statement must also contain an explanation of the
530 owner's rights if a lienor fails to furnish the owner with a
531 notice as provided in s. 713.06(2) and an explanation of the
532 owner's rights as provided in s. 713.22. The authority that
533 issues the building permit must obtain from the Department of
534 Business and Professional Regulation the statement required by
535 this paragraph and must mail, deliver by electronic mail or
536 other electronic format or facsimile, or personally deliver that
537 statement to the owner or, in a case in which the owner is
538 required to personally appear to obtain the permit, provide that
539 statement to any owner making improvements to real property
540 consisting of a single or multiple family dwelling up to and

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541 including four units. However, the failure by the authorities to
542 provide the summary does not subject the issuing authority to
543 liability.

544 (c) In addition to providing the owner with the statement
545 as required by paragraph (b), inform each applicant who is not
546 the person whose right, title, and interest is subject to
547 attachment that, as a condition to the issuance of a building
548 permit, the applicant must promise in good faith that the
549 statement will be delivered to the person whose property is
550 subject to attachment.

551 (d) Furnish to the applicant two or more copies of a form
552 of notice of commencement conforming with s. 713.13.

553 (e) Require ~~If the direct contract is greater than \$2,500,~~
554 the applicant ~~to shall~~ file with the issuing authority before
555 ~~prior to~~ the first inspection ~~either a certified copy of the~~
556 ~~recorded~~ notice of commencement if the direct contract is
557 greater than \$2,500. For purposes of this paragraph, the term
558 "copy of the notice of commencement" means a certified copy of
559 the recorded notice of commencement, ~~or~~ a notarized statement
560 that the notice of commencement has been filed for recording,
561 along with a copy thereof, or the clerk's office official
562 records identifying information that includes the instrument
563 number for the notice of commencement or the number and page of
564 book where the notice of commencement is recorded, as identified
565 by the clerk.

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566 1. In the absence of the filing of a ~~certified~~ copy of the
567 ~~recorded~~ notice of commencement, the issuing authority or a
568 private provider performing inspection services may not perform
569 or approve subsequent inspections until the applicant files by
570 mail, facsimile, hand delivery, or any other means such
571 ~~certified~~ copy with the issuing authority.

572 2. The ~~certified~~ copy of the notice of commencement must
573 contain the name and address of the owner, the name and address
574 of the contractor, and the location or address of the property
575 being improved. The issuing authority shall verify that the name
576 and address of the owner, the name of the contractor, and the
577 location or address of the property being improved which is
578 contained in the ~~certified~~ copy of the notice of commencement is
579 consistent with the information in the building permit
580 application.

581 3. The issuing authority shall provide the recording
582 information on the ~~certified~~ copy of the ~~recorded~~ notice of
583 commencement to any person upon request.

584 4. This subsection does not require the recording of a
585 notice of commencement before ~~prior to~~ the issuance of a
586 building permit. If a local government requires a separate
587 permit or inspection for installation of temporary electrical
588 service or other temporary utility service, land clearing, or
589 other preliminary site work, such permits may be issued and such
590 inspections may be conducted without providing the issuing

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591 authority with a ~~certified~~ copy of the ~~a recorded~~ notice of
592 commencement ~~or a notarized statement regarding a recorded~~
593 ~~notice of commencement. This subsection does not apply to a~~
594 ~~direct contract to repair or replace an existing heating or air-~~
595 ~~conditioning system in an amount less than \$7,500.~~

596 (f) ~~(e)~~ Not require that a notice of commencement be
597 recorded as a condition of the application for, or processing or
598 issuance of, a building permit. However, this paragraph does not
599 modify or waive the inspection requirements set forth in this
600 subsection.

601
602 This subsection does not apply to a direct contract to repair or
603 replace an existing heating or air-conditioning system in an
604 amount less than \$7,500.

605 (3) An issuing authority under subsection (1) is not
606 liable in any civil action for the failure to verify that a
607 certified copy of the recorded notice of commencement, a
608 notarized statement that the notice of commencement has been
609 filed for recording along with a copy thereof, or the clerk's
610 office official records identifying information that includes
611 the instrument number for the notice of commencement or the
612 number and page of book where the notice of commencement is
613 recorded, as identified by the clerk, has been filed in
614 accordance with this section.

615 Section 9. Section 713.18, Florida Statutes, is amended to

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616 read:

617 713.18 Manner of serving documents ~~notices and other~~
618 ~~instruments.~~-

619 (1) Unless otherwise specifically provided by law, service
620 of any document ~~notices, claims of lien, affidavits,~~
621 ~~assignments, and other instruments~~ permitted or required under
622 this part, s. 255.05, or s. 337.18, or copies thereof when so
623 permitted or required, ~~unless otherwise specifically provided in~~
624 ~~this part,~~ must be made by one of the following methods:

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

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

633 (c) By posting on the site of the improvement if service
634 as provided by paragraph (a) or paragraph (b) cannot be
635 accomplished.

636 (2) Notwithstanding subsection (1), service of a notice to
637 owner or a preliminary notice to contractor under this part, s.
638 255.05, or s. 337.18, ~~or s. 713.23~~ is effective as of the date
639 of mailing and the requirements for service under this section
640 have been satisfied if all of the following requirements have

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641 been met:

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

646 (b) The notice is mailed within 40 days after the date the
647 lienor first furnishes labor, services, or materials. ~~;~~ ~~and~~

648 (c)1. The person who served the notice maintains a
649 registered or certified mail log that shows the registered or
650 certified mail number issued by the United States Postal
651 Service, the name and address of the person served, and the date
652 stamp of the United States Postal Service confirming the date of
653 mailing; or

654 2. The person who served the notice maintains ~~electronic~~
655 tracking records approved or generated by the United States
656 Postal Service containing the postal tracking number, ~~the name~~
657 ~~and address of the person served,~~ and verification of the date
658 of receipt by the United States Postal Service.

659 (3) (a) Notwithstanding subsection (1), service of a
660 document under ~~an instrument pursuant to~~ this section is
661 effective on the date of mailing or shipping, and the
662 requirements for service under this section have been satisfied,
663 ~~the instrument~~ if the document ~~it~~:

664 1. Is sent to the last address shown in the notice of
665 commencement or any amendment thereto or, in the absence of a

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666 notice of commencement, to the last address shown in the
667 building permit application, or to the last known address of the
668 person to be served.~~;~~ and

669 2. Is returned as being "refused," "moved, not
670 forwardable," or "unclaimed," or is otherwise not delivered or
671 deliverable through no fault of the person serving the document
672 ~~item~~.

673 (b) If the address shown in the notice of commencement or
674 any amendment thereto ~~to the notice of commencement~~, or, in the
675 absence of a notice of commencement, in the building permit
676 application, is incomplete for purposes of mailing or delivery,
677 the person serving the document ~~item~~ may complete the address
678 and properly format it according to United States Postal Service
679 addressing standards using information obtained from the
680 property appraiser or another public record without affecting
681 the validity of service under this section.

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

685 Section 10. Section 713.21, Florida Statutes, is amended
686 to read:

687 713.21 Discharge of lien.—A lien properly perfected under
688 this chapter may be discharged, or released in whole or in part,
689 by any of the following methods:

690 (1) By entering satisfaction of the lien upon the margin

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691 of the record thereof in the clerk's office when not otherwise
692 prohibited by law. This satisfaction shall be signed by the
693 lienor, the lienor's agent or attorney and attested by said
694 clerk. Any person who executes a claim of lien has ~~shall have~~
695 authority to execute a satisfaction in the absence of actual
696 notice of lack of authority to any person relying on the same.

697 (2) By the satisfaction or release of the lienor, duly
698 acknowledged and recorded in the clerk's office. The
699 satisfaction or release must include the lienor's notarized
700 signature and set forth the official records' reference numbers
701 and recording date affixed by the recording office on the
702 subject lien. Any person who executes a claim of lien has ~~shall~~
703 ~~have~~ authority to execute a satisfaction or release in the
704 absence of actual notice of lack of authority to any person
705 relying on the same.

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

708 (4) By an order of the circuit court of the county where
709 the property is located, as provided in this subsection. Upon
710 filing a complaint therefor by any interested party the clerk
711 shall issue a summons to the lienor to show cause within 20 days
712 why his or her lien should not be enforced by action or vacated
713 and canceled of record. Upon failure of the lienor to show cause
714 why his or her lien should not be enforced or the lienor's
715 failure to commence such action before the return date of the

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716 summons the court shall forthwith order cancellation of the
717 lien.

718 (5) By recording in the clerk's office the original or a
719 certified copy of a judgment or decree of a court of competent
720 jurisdiction showing a final determination of the action.

721 Section 11. Subsection (2) of section 713.22, Florida
722 Statutes, is amended to read:

723 713.22 Duration of lien.—

724 (2) An owner or the owner's attorney may elect to shorten
725 the time prescribed in subsection (1) within which to commence
726 an action to enforce any claim of lien or claim against a bond
727 or other security under s. 713.23 or s. 713.24 by recording in
728 the clerk's office a notice in substantially the following form:

729 NOTICE OF CONTEST OF LIEN

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

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

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

738 The lien of any lienor upon whom such recorded notice is served
739 and who fails to institute a suit to enforce his or her lien
740 within 60 days after service of such recorded notice shall be

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741 extinguished automatically. The clerk shall serve, in accordance
742 with s. 713.18, a copy of the recorded notice of contest to the
743 lien claimant at the address shown in the claim of lien or most
744 recent amendment thereto and shall certify to such service and
745 the date of service on the face of the notice and record the
746 notice.

747 Section 12. Paragraphs (d) and (e) of subsection (1) of
748 section 713.23, Florida Statutes, are amended to read:

749 713.23 Payment bond.—

750 (1)

751 (d) In addition, a lienor who has not received payment for
752 furnishing his or her labor, services, or materials must, as a
753 condition precedent to recovery under the bond, serve a written
754 notice of nonpayment on ~~to~~ the contractor and a copy of the
755 notice on the surety. The notice must be under oath and served
756 during the progress of the work or thereafter, but may not be
757 served later than 90 days after the final furnishing of labor,
758 services, or materials by the lienor, or, with respect to rental
759 equipment, later than 90 days after the date the rental
760 equipment was on the ~~job~~ site of the improvement and available
761 for use. A notice of nonpayment that includes sums for retainage
762 must specify the portion of the amount claimed for retainage.
763 The required notice satisfies this condition precedent with
764 respect to the payment described in the notice of nonpayment,
765 including unpaid finance charges due under the lienor's

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766 contract, and with respect to any other payments which become
767 due to the lienor after the date of the notice of nonpayment.
768 The time period for serving a notice of nonpayment ~~is shall be~~
769 measured from the last day of furnishing labor, services, or
770 materials by the lienor and may not be measured by other
771 standards, such as the issuance of a certificate of occupancy or
772 the issuance of a certificate of substantial completion. The
773 failure of a lienor to receive retainage sums not in excess of
774 10 percent of the value of labor, services, or materials
775 furnished by the lienor is not considered a nonpayment requiring
776 the service of the notice provided under this paragraph. If the
777 payment bond is not recorded before commencement of
778 construction, the time period for the lienor to serve a notice
779 of nonpayment may, at the option of the lienor, be calculated
780 from the date specified in this section or the date the lienor
781 is served a copy of the bond. However, the limitation period for
782 commencement of an action on the payment bond as established in
783 paragraph (e) may not be expanded. The negligent inclusion or
784 omission of any information in the notice of nonpayment that has
785 not prejudiced the contractor or surety does not constitute a
786 default that operates to defeat an otherwise valid bond claim. A
787 lienor who serves a fraudulent notice of nonpayment forfeits his
788 or her rights under the bond. A notice of nonpayment is
789 fraudulent if the lienor has willfully exaggerated the amount
790 unpaid, willfully included a claim for work not performed or

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791 materials not furnished for the subject improvement, or prepared
792 the notice with such willful and gross negligence as to amount
793 to a willful exaggeration. However, a minor mistake or error in
794 a notice of nonpayment, or a good faith dispute as to the amount
795 unpaid, does not constitute a willful exaggeration that operates
796 to defeat an otherwise valid claim against the bond. The service
797 of a fraudulent notice of nonpayment is a complete defense to
798 the lienor's claim against the bond. The notice under this
799 paragraph must include the following information, current as of
800 the date of the notice, and must be in substantially the
801 following form:

802
803 NOTICE OF NONPAYMENT
804

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

806
807 ...(name of surety and address)...

808
809 The undersigned lienor notifies you that:

810 1. The lienor has furnished ...(describe labor, services,
811 or materials)... for the improvement of the real property
812 identified as ...(property description).... The corresponding
813 amount unpaid to date is \$...., of which \$.... is unpaid
814 retainage.

815 2. The lienor has been paid to date the amount of \$....

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816 for previously furnishing ...(describe labor, services, or
817 materials)... for this improvement.

818 3. The lienor expects to furnish ...(describe labor,
819 services, or materials)... for this improvement in the future
820 (if known), and the corresponding amount expected to become due
821 is \$.... (if known).

822
823 I declare that I have read the foregoing Notice of Nonpayment
824 and that the facts stated in it are true to the best of my
825 knowledge and belief.

826
827 DATED on,

828
829 ... (signature and address of lienor)...

830
831 STATE OF FLORIDA
832 COUNTY OF.....

833
834 The foregoing instrument was sworn to (or affirmed) and
835 subscribed before me by means of physical presence or sworn to
836 (or affirmed) by online notarization, this day of,
837 ...(year)..., by ...(name of signatory)....

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

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

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841
842 Personally Known OR Produced Identification

843
844 Type of Identification Produced

845 (e) An action for the labor, ~~or~~ materials, or supplies may
846 not be instituted or prosecuted against the contractor or surety
847 unless both notices have been given, if required by this
848 section. An action may not be instituted or prosecuted against
849 the contractor or against the surety on the bond under this
850 section after 1 year from the performance of the labor or
851 completion of delivery of the materials and supplies. The time
852 period for bringing an action against the contractor or surety
853 on the bond is ~~shall be~~ measured from the last day of furnishing
854 labor, services, or materials by the lienor. The time period may
855 not be measured by other standards, such as the issuance of a
856 certificate of occupancy or the issuance of a certificate of
857 substantial completion. A contractor or the contractor's
858 attorney may elect to shorten the time within which an action to
859 enforce any claim against a payment bond provided under this
860 section or s. 713.245 must be commenced at any time after a
861 notice of nonpayment, if required, has been served for the claim
862 by recording in the clerk's office a notice in substantially the
863 following form:

864 NOTICE OF CONTEST OF CLAIM
865 AGAINST PAYMENT BOND

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

867 You are notified that the undersigned contests your notice
868 of nonpayment, dated,, and served on the undersigned
869 on,, and that the time within which you may file suit
870 to enforce your claim is limited to 60 days after ~~from~~ the date
871 of service of this notice.

872 DATED on,

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

874 The claim of any lienor upon whom the notice is served and who
875 fails to institute a suit to enforce his or her claim against
876 the payment bond within 60 days after service of the notice
877 shall be extinguished automatically. The contractor or the
878 contractor's attorney shall serve a copy of the notice of
879 contest to the lienor at the address shown in the notice of
880 nonpayment or most recent amendment thereto and shall certify to
881 such service on the face of the notice and record the notice.

882 Section 13. Subsections (1) and (3) of section 713.24,
883 Florida Statutes, are amended to read:

884 713.24 Transfer of liens to security.—

885 (1) Any lien claimed under this part may be transferred,
886 by any person having an interest in the real property upon which
887 the lien is imposed or the contract under which the lien is
888 claimed, from such real property to other security by either:

889 (a) Depositing in the clerk's office a sum of money, or

890 (b) Filing in the clerk's office a bond executed as surety

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891 by a surety insurer licensed to do business in this state,
892
893 either to be in an amount equal to the amount demanded in such
894 claim of lien, plus interest thereon at the legal rate for 3
895 years, plus \$5,000 ~~\$1,000~~ or 25 percent of the amount demanded
896 in the claim of lien, whichever is greater, to apply on any
897 attorney ~~attorney's~~ fees and court costs that may be taxed in
898 any proceeding to enforce said lien. Such deposit or bond shall
899 be conditioned to pay any judgment or decree which may be
900 rendered for the satisfaction of the lien for which such claim
901 of lien was recorded. Upon making such deposit or filing such
902 bond, the clerk shall make and record a certificate which must
903 include a copy of the deposit or bond used to transfer, showing
904 the transfer of the lien from the real property to the security
905 and shall mail a copy thereof together with a copy of the
906 deposit or bond used to transfer by registered or certified mail
907 to the lienor named in the claim of lien so transferred, at the
908 address stated therein. Upon filing the certificate of transfer,
909 the real property shall thereupon be released from the lien
910 claimed, and such lien shall be transferred to said security. In
911 the absence of allegations of privity between the lienor and the
912 owner, and subject to any order of the court increasing the
913 amount required for the lien transfer deposit or bond, no other
914 judgment or decree to pay money may be entered by the court
915 against the owner. The clerk is ~~shall be~~ entitled to a service

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916 charge for making and serving the certificate, in the amount of
917 up to \$20, from which the clerk shall remit \$5 to the Department
918 of Revenue for deposit into the General Revenue Fund. If the
919 transaction involves the transfer of multiple liens, an
920 additional charge of up to \$10 for each additional lien shall be
921 charged, from which the clerk shall remit \$2.50 to the
922 Department of Revenue for deposit into the General Revenue Fund.
923 For recording the certificate and approving the bond, the clerk
924 shall receive her or his usual statutory service charges as
925 prescribed in s. 28.24. Any number of liens may be transferred
926 to one such security.

927 (3) Any party having an interest in such security or the
928 property from which the lien was transferred may at any time,
929 and any number of times, file a complaint in chancery in the
930 circuit court of the county where such security is deposited, or
931 file a motion in a pending action to enforce a lien, for an
932 order to require additional security, reduction of security,
933 change or substitution of sureties, payment of discharge
934 thereof, or any other matter affecting said security. If the
935 court finds that the amount of the deposit or bond in excess of
936 the amount claimed in the claim of lien is insufficient to pay
937 the lienor's attorney ~~attorney's~~ fees and court costs incurred
938 in the action to enforce the lien, the court must increase the
939 amount of the cash deposit or lien transfer bond. Nothing in
940 this section shall be construed to vest exclusive jurisdiction

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941 in the circuit courts over transfer bond claims for nonpayment
942 of an amount within the monetary jurisdiction of the county
943 courts.

944 Section 14. Section 713.25, Florida Statutes, is repealed.

945 Section 15. Section 713.29, Florida Statutes, is amended
946 to read:

947 713.29 Attorney ~~Attorney's~~ fees.—In any action brought to
948 enforce a lien, including a lien that has been transferred to
949 security, or to enforce a claim against a bond under this part,
950 the prevailing party is entitled to recover a reasonable fee for
951 the services of her or his attorney for trial and appeal or for
952 arbitration, in an amount to be determined by the court, which
953 fee must be taxed as part of the prevailing party's costs, as
954 allowed in equitable actions.

955 Section 16. Paragraph (b) of subsection (2) and paragraph
956 (e) of subsection (5) of section 95.11, Florida Statutes, are
957 amended to read:

958 95.11 Limitations other than for the recovery of real
959 property.—Actions other than for recovery of real property shall
960 be commenced as follows:

961 (2) WITHIN FIVE YEARS.—

962 (b) A legal or equitable action on a contract, obligation,
963 or liability founded on a written instrument, except for an
964 action to enforce a claim against a payment bond, which shall be
965 governed by the applicable provisions of paragraph (5)(e), s.

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966 | 255.05(9) ~~s. 255.05(10)~~, s. 337.18(1), or s. 713.23(1)(e), and
967 | except for an action for a deficiency judgment governed by
968 | paragraph (5)(h).

969 | (5) WITHIN ONE YEAR.—

970 | (e) Except for actions governed by s. 255.05(9) ~~s.~~
971 | ~~255.05(10)~~, s. 337.18(1), or s. 713.23(1)(e), an action to
972 | enforce any claim against a payment bond on which the principal
973 | is a contractor, subcontractor, or sub-subcontractor as defined
974 | in s. 713.01, for private work as well as public work, from the
975 | last furnishing of labor, services, or materials or from the
976 | last furnishing of labor, services, or materials by the
977 | contractor if the contractor is the principal on a bond on the
978 | same construction project, whichever is later.

979 | Section 17. This act shall take effect July 1, 2022.

980 |

981 |

982 | -----

983 | **T I T L E A M E N D M E N T**

984 | Remove everything before the enacting clause and insert:
985 | An act relating to liens and bonds; amending s. 255.05, F.S.;
986 | revising when a notice of claim against a payment bond and a
987 | notice of nonpayment must be served; requiring that a copy of a
988 | notice of nonpayment be served on the surety; revising when a
989 | notice of nonpayment must be served; revising the process for
990 | notarizing a notice of nonpayment; removing the authority for a

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991 contractor to file an alternative form of security rather than a
992 bond; requiring service of documents to be made in a specified
993 manner; conforming provisions to changes made by the act; making
994 technical changes; amending s. 337.18, F.S.; requiring service
995 of documents to be made in a specified manner; conforming
996 provisions to changes made by the act; amending s. 713.01, F.S.;
997 revising and providing definitions; creating s. 713.011, F.S.;
998 providing for the computation of time for recording a document
999 or filing an action when certain time periods fall on specified
1000 days or during a declared state of emergency; providing that
1001 certain orders constitute a state of emergency; amending s.
1002 713.10, F.S.; revising the extent of certain liens; amending s.
1003 713.13, F.S.; conforming a cross-reference; revising the process
1004 for notarizing a notice of commencement; amending s. 713.132,
1005 F.S.; revising requirements for a notice of termination;
1006 amending s. 713.135, F.S.; providing a definition; making
1007 technical changes; providing that an issuing authority is not
1008 liable for failing to verify that specified information has been
1009 filed; amending s. 713.18, F.S.; requiring service of documents
1010 relating to construction bonds to be made in a specified manner;
1011 making technical changes; amending s. 713.21, F.S.; authorizing
1012 the full or partial release of a lien under specified
1013 conditions; amending s. 713.22, F.S.; revising the information
1014 required in the notice of contest of lien; amending s. 713.23,
1015 F.S.; requiring that a copy of a notice of nonpayment be served

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1016 on the surety; revising the process for notarizing a notice of
1017 nonpayment under a payment bond; amending s. 713.24, F.S.;
1018 revising the amount required in addition to the deposit or bond
1019 that applies toward attorney fees and costs; requiring the clerk
1020 to make a copy of the deposit or bond used to transfer a lien to
1021 other security and mail it to the lienor; repealing s. 713.25,
1022 F.S., relating to applicability of ch. 65-456; amending s.
1023 713.29, F.S.; authorizing attorney fees in actions to enforce a
1024 lien that has been transferred to security; amending s. 95.11,
1025 F.S.; conforming a cross-reference; providing an effective date.