

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Overdorf offered the following:

Amendment (with title amendment)

Remove lines 99-917 and insert:

contractor's attorney. The clerk of the court shall charge fees for such services as provided by law.

2. A claimant, except a laborer, who is not in privity with the contractor shall, before commencing or not later than 45 days after commencing to furnish labor, services, or materials for the prosecution of the work, serve the contractor with a written notice that he or she intends to look to the bond for protection. If the payment bond is not recorded before the commencement of work or before the recommencement of work after

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14 a default or abandonment as required by subsection (1), the
15 claimant may serve the contractor with such written notice up to
16 45 days after the date that the claimant is served with a copy
17 of the bond. A claimant who is not in privity with the
18 contractor and who has not received payment for furnishing his
19 or her labor, services, or materials shall serve a written
20 notice of nonpayment on the contractor and a copy of the notice
21 of nonpayment on the surety. The notice of nonpayment must ~~shall~~
22 be under oath and served during the progress of the work or
23 thereafter but may not be served earlier than 45 days after the
24 first furnishing of labor, services, or materials by the
25 claimant or later than 90 days after the final furnishing of the
26 labor, services, or materials by the claimant or, with respect
27 to rental equipment, later than 90 days after the date that the
28 rental equipment was last on the ~~job~~ site of the improvement and
29 available for use. Any notice of nonpayment served by a claimant
30 who is not in privity with the contractor which includes sums
31 for retainage must specify the portion of the amount claimed for
32 retainage. An action for the labor, services, or materials may
33 not be instituted against the contractor or the surety unless
34 the notice to the contractor and notice of nonpayment have been
35 served, if required by this section. Notices required or
36 permitted under this section must be served in accordance with
37 s. 713.18. A claimant may not waive in advance his or her right
38 to bring an action under the bond against the surety. In any

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39 action brought to enforce a claim against a payment bond under
40 this section, the prevailing party is entitled to recover a
41 reasonable fee for the services of his or her attorney for trial
42 and appeal or for arbitration, in an amount to be determined by
43 the court or arbitrator, which fee must be taxed as part of the
44 prevailing party's costs, as allowed in equitable actions. The
45 time periods for service of a notice of nonpayment or for
46 bringing an action against a contractor or a surety are ~~shall be~~
47 measured from the last day of furnishing labor, services, or
48 materials by the claimant and may not be measured by other
49 standards, such as the issuance of a certificate of occupancy or
50 the issuance of a certificate of substantial completion. The
51 negligent inclusion or omission of any information in the notice
52 of nonpayment that has not prejudiced the contractor or surety
53 does not constitute a default that operates to defeat an
54 otherwise valid bond claim. A claimant who serves a fraudulent
55 notice of nonpayment forfeits his or her rights under the bond.
56 A notice of nonpayment is fraudulent if the claimant has
57 willfully exaggerated the amount unpaid, willfully included a
58 claim for work not performed or materials not furnished for the
59 subject improvement, or prepared the notice with such willful
60 and gross negligence as to amount to a willful exaggeration.
61 However, a minor mistake or error in a notice of nonpayment, or
62 a good faith dispute as to the amount unpaid, does not
63 constitute a willful exaggeration that operates to defeat an

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64 otherwise valid claim against the bond. The service of a
65 fraudulent notice of nonpayment is a complete defense to the
66 claimant's claim against the bond. The notice of nonpayment
67 under this subparagraph must include the following information,
68 current as of the date of the notice, and must be in
69 substantially the following form:

70
71 NOTICE OF NONPAYMENT

72
73 To: ... (name of contractor and address)...

74
75 ... (name of surety and address)...

76
77 The undersigned claimant notifies you that:

78 1. Claimant has furnished ... (describe labor, services, or
79 materials)... for the improvement of the real property
80 identified as ... (property description).... The corresponding
81 amount unpaid to date is \$...., of which \$.... is unpaid
82 retainage.

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

86 3. Claimant expects to furnish ... (describe labor,
87 services, or materials)... for this improvement in the future

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88 (if known), and the corresponding amount expected to become due
89 is \$.... (if known).

90
91 I declare that I have read the foregoing Notice of Nonpayment
92 and that the facts stated in it are true to the best of my
93 knowledge and belief.

94
95 DATED on,

96
97 ... (signature and address of claimant) ...

98
99 STATE OF FLORIDA

100 COUNTY OF

101
102 The foregoing instrument was sworn to (or affirmed) and
103 subscribed before me by means of physical presence or sworn to
104 (or affirmed) by online notarization this day of,
105 ...(year)..., by ... (name of signatory)....

106
107 ... (Signature of Notary Public - State of Florida) ...

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

110
111 Personally Known OR Produced Identification

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113 Type of Identification Produced

114 (7) In lieu of the bond required by this section, a
 115 contractor may file with the state, county, city, or other
 116 political authority an alternative form of security in the form
 117 of cash; ~~a money order; a certified check; a cashier's~~
 118 ~~check; an irrevocable letter of credit,~~ or a domestic corporate
 119 bond, note, or debenture as authorized in s. 625.317 ~~security of~~
 120 ~~a type listed in part II of chapter 625.~~ Any such alternative
 121 form of security is ~~shall be~~ for the same purpose and ~~be~~ subject
 122 to the same conditions as those applicable to the bond required
 123 by this section. ~~The determination of the value of an~~
 124 ~~alternative form of security shall be made by the appropriate~~
 125 state, county, city, or other political subdivision shall
 126 determine the required value of an alternative form of security.

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

129 Section 2. Paragraph (c) of subsection (1) of section
 130 337.18, Florida Statutes, is amended, and subsection (6) is
 131 added to that section, to read:

132 337.18 Surety bonds for construction or maintenance
 133 contracts; requirement with respect to contract award; bond
 134 requirements; defaults; damage assessments.—

135 (1)

136 (c) A claimant, except a laborer, who is not in privity
 137 with the contractor shall, before commencing or not later than

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138 90 days after commencing to furnish labor, materials, or
139 supplies for the prosecution of the work, furnish the contractor
140 with a notice that he or she intends to look to the bond for
141 protection. A claimant who is not in privity with the contractor
142 and who has not received payment for his or her labor,
143 materials, or supplies shall deliver to the contractor and to
144 the surety written notice of the performance of the labor or
145 delivery of the materials or supplies and of the nonpayment. The
146 notice of nonpayment may be served at any time during the
147 progress of the work or thereafter but not before 45 days after
148 the first furnishing of labor, services, or materials, and not
149 later than 90 days after the final furnishing of the labor,
150 services, or materials by the claimant or, with respect to
151 rental equipment, not later than 90 days after the date that the
152 rental equipment was last on the ~~job~~ site of the improvement and
153 available for use. An action by a claimant, except a laborer,
154 who is not in privity with the contractor for the labor,
155 materials, or supplies may not be instituted against the
156 contractor or the surety unless both notices have been given.
157 Written notices required or permitted under this section must
158 ~~may~~ be served in accordance with any manner provided in s.
159 713.18.

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

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162 Section 3. Subsections (13) through (29) of section
163 713.01, Florida Statutes, are renumbered as subsections (14)
164 through (30), respectively, subsections (4), (8), and (12) are
165 amended, and a new subsection (13) is added to that section, to
166 read:

167 713.01 Definitions.—As used in this part, the term:

168 (4) "Clerk's office" means the office of the clerk of the
169 circuit court of the county, or another office serving as the
170 county recorder as provided by law, in which the real property
171 is located.

172 (8) "Contractor" means a person other than a materialman
173 or laborer who enters into a contract with the owner of real
174 property for improving it, or who takes over from a contractor
175 as so defined the entire remaining work under such contract. The
176 term "contractor" includes an architect, landscape architect, or
177 engineer who improves real property pursuant to a design-build
178 contract authorized by s. 489.103(16). The term also includes a
179 licensed general contractor or building contractor, as those
180 terms are defined in s. 489.105(3)(a) and (b), respectively, who
181 provides construction management services, which include
182 scheduling and coordinating preconstruction and construction
183 phases for the construction project, or who provides program
184 management services, which include schedule control, cost
185 control, and coordinating the provision or procurement of
186 planning, design, and construction for the construction project.

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187 (12) "Final furnishing" means the last date that the
188 lienor furnishes labor, services, or materials. Such date may
189 not be measured by other standards, such as the issuance of a
190 certificate of occupancy or the issuance of a certificate of
191 final completion, and does not include the correction of
192 deficiencies in the lienor's previously performed work or
193 materials supplied. With respect to rental equipment, the term
194 means the date that the rental equipment was last on the ~~job~~
195 site of the improvement and available for use.

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

200 Section 4. Section 713.011, Florida Statutes, is created
201 to read:

202 713.011 Computation of time.-

203 (1) In computing any time period under this part, if the
204 last day of the time period is a Saturday, Sunday, or holiday
205 specified in s. 110.117(1), or any day observed as a holiday by
206 the clerk's office or designated as a holiday by the chief judge
207 of the circuit, the time period is extended to the end of the
208 next business day.

209 (2) If the clerk's office is closed in response to an
210 emergency for 1 or more days so that a person may not present a
211 document for recording or an action for filing in person to the

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212 clerk's staff, the time period for recording a document or
213 filing an action with the clerk's office under this part is
214 tolled. When the clerk's office reopens, the time period is
215 extended by the number of days the clerk's office was closed.

216 Section 5. Paragraph (b) of subsection (2) of section
217 713.10, Florida Statutes, is amended, and subsection (4) is
218 added to that section, to read:

219 713.10 Extent of liens.—

220 (2)

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

223 1. The lease, or a short form or a memorandum of the lease
224 that contains the specific language in the lease prohibiting
225 such liability, is recorded in the official records of the
226 county where the premises are located before the recording of a
227 notice of commencement for improvements to the premises and the
228 terms of the lease expressly prohibit such liability; or

229 2. The terms of the lease expressly prohibit such
230 liability, and a notice advising that leases for the rental of
231 premises on a parcel of land prohibit such liability has been
232 recorded in the official records of the county in which the
233 parcel of land is located before the recording of a notice of
234 commencement for improvements to the premises, and the notice
235 includes the following:

236 a. The name of the lessor.

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237 b. The legal description of the parcel of land to which
238 the notice applies.

239 c. The specific language contained in the various leases
240 prohibiting such liability.

241 d. A statement that all or a majority of the leases
242 entered into for premises on the parcel of land expressly
243 prohibit such liability.

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

246
247 A notice that is consistent with subparagraph 2. effectively
248 prohibits liens for improvements made by a lessee even if other
249 leases for premises on the parcel do not expressly prohibit
250 liens or if provisions of each lease restricting the application
251 of liens are not identical.

252 (4) The interest of the lessor is not subject to liens for
253 improvements made by the lessee when the lessee is a mobile home
254 owner who is leasing a mobile home lot in a mobile home park
255 from the lessor.

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

258 713.13 Notice of commencement.—

259 (1)(a) Except for an improvement that is exempt under
260 ~~pursuant to~~ s. 713.02(5), an owner or the owner's authorized
261 agent before actually commencing to improve any real property,

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262 or recommencing completion of any improvement after default or
263 abandonment, whether or not a project has a payment bond
264 complying with s. 713.23, shall record a notice of commencement
265 in the clerk's office and ~~forthwith~~ post either a certified copy
266 thereof or a notarized statement that the notice of commencement
267 has been filed for recording along with a copy thereof. The
268 notice of commencement must ~~shall~~ contain all of the following
269 information:

270 1. A description sufficient for identification of the real
271 property to be improved. The description must ~~should~~ include the
272 legal description of the property and ~~also should include~~ the
273 street address and tax folio number of the property if available
274 or, if the ~~there is no~~ street address is not available, such
275 additional information as will describe the physical location of
276 the real property to be improved.

277 2. A general description of the improvement.

278 3. The name and address of the owner, the owner's interest
279 in the site of the improvement, and the name and address of the
280 fee simple titleholder, if other than such owner. A lessee who
281 contracts for the improvements is an owner as defined in s.
282 713.01 ~~under s. 713.01(23)~~ and must be listed as the owner
283 together with a statement that the ownership interest is a
284 leasehold interest.

285 4. The name and address of the contractor.

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

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

290 7. The name and address within the state of a person other
291 than himself or herself who may be designated by the owner as
292 the person upon whom notices or other documents may be served
293 under this part; and service upon the person so designated
294 constitutes service upon the owner.

295 (d) A notice of commencement must be in substantially the
296 following form:

297
298 Permit No..... Tax Folio No.....

299 NOTICE OF COMMENCEMENT

300 State of....

301 County of....

302

303 The undersigned hereby gives notice that improvement will be
304 made to certain real property, and in accordance with Chapter
305 713, Florida Statutes, the following information is provided in
306 this Notice of Commencement.

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

309 2. General description of improvement:.....

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310 3. Owner information or Lessee information if the Lessee
311 contracted for the improvement:
312 a. Name and address:.....
313 b. Interest in property:.....
314 c. Name and address of fee simple titleholder (if
315 different from Owner listed above):.....
316 4.a. Contractor: ...(name and address)....
317 b. Contractor's phone number:.....
318 5. Surety (if applicable, a copy of the payment bond is
319 attached):
320 a. Name and address:.....
321 b. Phone number:.....
322 c. Amount of bond: \$.....
323 6.a. Lender: ...(name and address)....
324 b. Lender's phone number:.....
325 7. Persons within the State of Florida designated by Owner
326 upon whom notices or other documents may be served as provided
327 by Section 713.13(1)(a)7., Florida Statutes:
328 a. Name and address:.....
329 b. Phone numbers of designated persons:.....
330 8.a. In addition to himself or herself, Owner designates
331 of to receive a copy of the Lienor's
332 Notice as provided in Section 713.13(1)(b), Florida Statutes.
333 b. Phone number of person or entity designated by
334 owner:.....

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335 9. Expiration date of notice of commencement (the
336 expiration date will be 1 year after ~~from~~ the date of recording
337 unless a different date is specified).....

338
339 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE
340 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER
341 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA
342 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS
343 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
344 POSTED ON THE ~~JOB~~ SITE OF THE IMPROVEMENT BEFORE THE FIRST
345 INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR
346 LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR
347 NOTICE OF COMMENCEMENT.

348
349 ...(Signature of Owner or Lessee, or Owner's or Lessee's
350 Authorized Officer/Director/Partner/Manager)...

351
352 ...(Signatory's Title/Office)...

353
354 The foregoing instrument was acknowledged before me by means of
355 physical presence or sworn to (or affirmed) by online
356 notarization this day of, ...(year)...., by ...(name of
357 person)... as ...(type of authority, . . . e.g. officer,
358 trustee, attorney in fact)... for ...(name of party on behalf of
359 whom instrument was executed)....

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360
 361 ... (Signature of Notary Public - State of Florida) ...
 362
 363 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
 364

365 Personally Known OR Produced Identification

366
 367 Type of Identification Produced.....

368 Section 7. Subsections (1), (3), and (4) of section
 369 713.132, Florida Statutes, are amended to read:

370 713.132 Notice of termination.-

371 (1) An owner may terminate the period of effectiveness of
 372 a notice of commencement by executing, swearing to, and
 373 recording a notice of termination that contains all of the
 374 following:

375 (a) The same information that is in ~~as~~ the notice of
 376 commencement. ~~†~~

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

380 (c) A statement of the date as of which the notice of
 381 commencement is terminated, which date may not be earlier than
 382 30 days after the notice of termination is recorded. ~~†~~

383 (d) A statement specifying that the notice applies to all
 384 the real property subject to the notice of commencement or

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385 specifying the portion of such real property to which it
386 applies.†

387 (e) A statement that all lienors have been paid in full.†
388 and

389 (f) A statement that the owner has, before recording the
390 notice of termination, served a copy of the notice of
391 termination ~~on the contractor and~~ on each lienor who has a
392 direct contract with the owner or who has timely served a notice
393 to owner, and a statement that the owner will serve a copy of
394 the notice of termination on each lienor who timely serves a
395 notice to owner after the notice of termination has been
396 recorded. The owner is not required to serve a copy of the
397 notice of termination on any lienor who has executed a waiver
398 and release of lien upon final payment in accordance with s.
399 713.20.

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

404 (4) If an owner or a contractor, by fraud or collusion,
405 knowingly makes any fraudulent statement or affidavit in a
406 notice of termination or any accompanying affidavit, the owner
407 and the contractor, or either of them, ~~as the case may be,~~ is
408 liable to any lienor who suffers damages as a result of the

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409 filing of the fraudulent notice of termination, ~~and~~ and any such
410 lienor has a right of action for damages ~~occasioned thereby~~.
411 (5)-(4) A notice of termination must be served before
412 recording on each lienor who has a direct contract with the
413 owner and on each lienor who has timely and properly served a
414 notice to owner in accordance with this part before the
415 recording of the notice of termination. A notice of termination
416 must be recorded in the official records of the county in which
417 the improvement is located. If properly served before recording
418 in accordance with this subsection, the notice of termination
419 terminates the period of effectiveness of the notice of
420 commencement 30 days after the notice of termination is recorded
421 in the official records is effective to terminate the notice of
422 commencement at the later of 30 days after recording of the
423 notice of termination or a later the date stated in the notice
424 of termination as the date on which the notice of commencement
425 is terminated. However, if a lienor who began work under the
426 notice of commencement before its termination lacks a direct
427 contract with the owner and timely serves his or her notice to
428 owner after the notice of termination has been recorded, the
429 owner must serve a copy of the notice of termination upon such
430 lienor, and the termination of the notice of commencement as to
431 that lienor is effective 30 days after service of the notice of
432 termination, if the notice of termination has been served
433 pursuant to paragraph (1) (f) on the contractor and on each

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434 ~~lienor who has a direct contract with the owner or who has~~
435 ~~served a notice to owner.~~

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

438 713.135 Notice of commencement and applicability of lien.—

439 (1) When a ~~any~~ person applies for a building permit, the
440 authority issuing such permit shall:

441 (a) Print on the face of each permit card in no less than
442 14-point, capitalized, boldfaced type: "WARNING TO OWNER: YOUR
443 FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR
444 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF
445 COMMENCEMENT MUST BE RECORDED AND POSTED ON THE ~~JOB~~ SITE OF THE
446 IMPROVEMENT BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN
447 FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE
448 RECORDING YOUR NOTICE OF COMMENCEMENT."

449 (b) Provide the applicant and the owner of the real
450 property upon which improvements are to be constructed with a
451 printed statement stating that the right, title, and interest of
452 the person who has contracted for the improvement may be subject
453 to attachment under the Construction Lien Law. The Department of
454 Business and Professional Regulation shall furnish, for
455 distribution, the statement described in this paragraph, and the
456 statement must be a summary of the Construction Lien Law and
457 must include an explanation of the provisions of the
458 Construction Lien Law relating to the recording, and the posting

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459 of copies, of notices of commencement and a statement
460 encouraging the owner to record a notice of commencement and
461 post a copy of the notice of commencement in accordance with s.
462 713.13. The statement must also contain an explanation of the
463 owner's rights if a lienor fails to furnish the owner with a
464 notice as provided in s. 713.06(2) and an explanation of the
465 owner's rights as provided in s. 713.22. The authority that
466 issues the building permit must obtain from the Department of
467 Business and Professional Regulation the statement required by
468 this paragraph and must mail, deliver by electronic mail or
469 other electronic format or facsimile, or personally deliver that
470 statement to the owner or, in a case in which the owner is
471 required to personally appear to obtain the permit, provide that
472 statement to any owner making improvements to real property
473 consisting of a single or multiple family dwelling up to and
474 including four units. However, the failure by the authorities to
475 provide the summary does not subject the issuing authority to
476 liability.

477 (c) In addition to providing the owner with the statement
478 as required by paragraph (b), inform each applicant who is not
479 the person whose right, title, and interest is subject to
480 attachment that, as a condition to the issuance of a building
481 permit, the applicant must promise in good faith that the
482 statement will be delivered to the person whose property is
483 subject to attachment.

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

486 ~~(e) Require If the direct contract is greater than \$2,500,~~
487 the applicant ~~to shall~~ file with the issuing authority before
488 ~~prior to~~ the first inspection ~~either a certified copy of the~~
489 ~~recorded~~ notice of commencement if the direct contract is
490 greater than \$5,000. For purposes of this paragraph, the term
491 "copy of the notice of commencement" means a certified copy of
492 the recorded notice of commencement, or a notarized statement
493 that the notice of commencement has been filed for recording,
494 along with a copy thereof, or the clerk's office's official
495 records identifying information that includes the instrument
496 number for the notice of commencement or the number and page of
497 book where the notice of commencement is recorded, as identified
498 by the clerk.

499 1. In the absence of the filing of a ~~certified~~ copy of the
500 ~~recorded~~ notice of commencement, the issuing authority or a
501 private provider performing inspection services may not perform
502 or approve subsequent inspections until the applicant files by
503 mail, facsimile, hand delivery, or any other means such
504 ~~certified~~ copy with the issuing authority.

505 2. The ~~certified~~ copy of the notice of commencement must
506 contain the name and address of the owner, the name and address
507 of the contractor, and the location or address of the property
508 being improved. The issuing authority shall verify that the name

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509 and address of the owner, the name of the contractor, and the
510 location or address of the property being improved which is
511 contained in the ~~certified~~ copy of the notice of commencement is
512 consistent with the information in the building permit
513 application.

514 3. The issuing authority shall provide the recording
515 information on the ~~certified~~ copy of the ~~recorded~~ notice of
516 commencement to any person upon request.

517 4. This paragraph ~~subsection~~ does not require the
518 recording of a notice of commencement before ~~prior to~~ the
519 issuance of a building permit. If a local government requires a
520 separate permit or inspection for installation of temporary
521 electrical service or other temporary utility service, land
522 clearing, or other preliminary site work, such permits may be
523 issued and such inspections may be conducted without providing
524 the issuing authority with a ~~certified~~ copy of the ~~a recorded~~
525 notice of commencement ~~or a notarized statement regarding a~~
526 ~~recorded notice of commencement. This subsection does not apply~~
527 ~~to a direct contract to repair or replace an existing heating or~~
528 ~~air-conditioning system in an amount less than \$15,000.~~

529 (f)-(e) Not require that a notice of commencement be
530 recorded as a condition of the application for, or processing or
531 issuance of, a building permit. However, this paragraph does not
532 modify or waive the inspection requirements set forth in this
533 subsection.

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534
535 This subsection does not apply to a direct contract to repair or
536 replace an existing heating or air-conditioning system in an
537 amount less than \$15,000.

538 (3) An issuing authority under subsection (1) is not
539 liable in any civil action for the failure to verify that a
540 certified copy of the recorded notice of commencement, a
541 notarized statement that the notice of commencement has been
542 filed for recording along with a copy thereof, or the clerk's
543 office's official records identifying information that includes
544 the instrument number for the notice of commencement or the
545 number and page of book where the notice of commencement is
546 recorded, as identified by the clerk, has been filed in
547 accordance with this section.

548 Section 9. Section 713.18, Florida Statutes, is amended to
549 read:

550 713.18 Manner of serving documents ~~notices and other~~
551 ~~instruments.~~

552 (1) Unless otherwise specifically provided by law, service
553 of any document ~~notices, claims of lien, affidavits,~~
554 ~~assignments, and other instruments~~ permitted or required under
555 this part, s. 255.05, or s. 337.18, or copies thereof when so
556 permitted or required, ~~unless otherwise specifically provided in~~
557 ~~this part,~~ must be made by one of the following methods:

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558 (a) By hand actual delivery to the person to be served; if
559 a partnership, to one of the partners; if a corporation, to an
560 officer or, director, ~~managing agent, or business agent; or~~, if
561 a limited liability company, to a member or manager; or to an
562 employee or agent authorized by the partnership, corporation, or
563 limited liability company to receive service of such document.

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

568 (c) By posting on the site of the improvement if service
569 as provided by paragraph (a) or paragraph (b) cannot be
570 accomplished.

571 (2) Notwithstanding subsection (1), service of a notice to
572 owner or a preliminary notice to contractor under this part, s.
573 255.05, or s. 337.18, or s. 713.23 is effective as of the date
574 of mailing and the requirements for service under this section
575 have been satisfied if all of the following requirements have
576 been met:

577 (a) The notice is mailed by registered, Global Express
578 Guaranteed, or certified mail, with postage prepaid, to the
579 person to be served and addressed as prescribed ~~at any of the~~
580 ~~addresses set forth~~ in subsection (3). ~~†~~

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

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583 (c)1. The person who served the notice maintains a
584 ~~registered or certified~~ mail log that shows the registered or
585 certified mail number issued by the United States Postal
586 Service, the name and address of the person served, and the date
587 stamp of the United States Postal Service confirming the date of
588 mailing; or

589 2. The person who served the notice maintains ~~electronic~~
590 tracking records approved or generated by the United States
591 Postal Service containing the postal tracking number, ~~the name~~
592 ~~and address of the person served,~~ and verification of the date
593 of receipt by the United States Postal Service.

594 (3)(a) Notwithstanding subsection (1), service of a
595 document under an instrument pursuant to this section is
596 effective on the date of mailing or shipping, and the
597 requirements for service under this section have been satisfied,
598 ~~the instrument~~ if the document meets both of the following
599 requirements it:

600 1. It is sent to the last address shown in the notice of
601 commencement or any amendment thereto or, in the absence of a
602 notice of commencement, to the last address shown in the
603 building permit application, or to the last known address of the
604 person to be served. ~~;~~ and

605 2. It is returned as being "refused," "moved, not
606 forwardable," or "unclaimed," or is otherwise not delivered or

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607 deliverable through no fault of the person serving the document
608 ~~item~~.

609 (b) If the address shown in the notice of commencement or
610 any amendment thereto ~~to the notice of commencement~~, or, in the
611 absence of a notice of commencement, in the building permit
612 application, is incomplete for purposes of mailing or delivery,
613 the person serving the document ~~item~~ may complete the address
614 and properly format it according to United States Postal Service
615 addressing standards using information obtained from the
616 property appraiser or another public record without affecting
617 the validity of service under this section.

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

621 Section 10. Section 713.21, Florida Statutes, is amended
622 to read:

623 713.21 Discharge of lien.—A lien properly perfected under
624 this chapter may be discharged, or released in whole or in part,
625 by any of the following methods:

626 (1) By entering satisfaction of the lien upon the margin
627 of the record thereof in the clerk's office when not otherwise
628 prohibited by law. This satisfaction must ~~shall~~ be signed by the
629 lienor or, the lienor's agent or attorney and attested by said
630 clerk. Any person who executes a claim of lien has ~~shall have~~

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631 authority to execute a satisfaction in the absence of actual
632 notice of lack of authority to any person relying on the same.

633 (2) By the satisfaction or release of the lienor, duly
634 acknowledged and recorded in the clerk's office. The
635 satisfaction or release must include the lienor's notarized
636 signature and set forth the official records' reference number
637 and recording date affixed by the recording office on the
638 subject lien. Any person who executes a claim of lien ~~has shall~~
639 ~~have~~ authority to execute a satisfaction or release in the
640 absence of actual notice of lack of authority to any person
641 relying on the same.

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

644 (4) By an order of the circuit court of the county where
645 the property is located, as provided in this subsection. Upon
646 filing a complaint ~~therefor~~ by any interested party the clerk
647 shall issue a summons to the lienor to show cause within 20 days
648 after service of the summons why his or her lien should not be
649 enforced by action or vacated and canceled of record. Upon
650 failure of the lienor to show cause why his or her lien should
651 not be enforced or the lienor's failure to commence such action
652 before the return date of the summons the court shall ~~forthwith~~
653 order cancellation of the lien.

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

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

659 713.22 Duration of lien.—

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

665 NOTICE OF CONTEST OF LIEN

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

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

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

674 The lien of any lienor upon whom such notice is served and who
675 fails to institute a suit to enforce his or her lien within 60
676 days after service of such notice is shall be extinguished
677 automatically. The clerk shall serve, in accordance with s.
678 713.18, a copy of the notice of contest on to the lienor lien

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679 ~~claimant~~ at the address shown in the claim of lien or most
680 recent amendment thereto and shall certify to such service and
681 the date of service on the face of the notice and record the
682 notice. After the clerk records the notice with the certificate
683 of service, the clerk shall serve, in accordance with s. 713.18,
684 a copy of such recorded notice on the lienor and the owner or
685 the owner's attorney. The clerk of the court shall charge fees
686 for such services as provided by law.

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

689 713.23 Payment bond.-

690 (1)

691 (d) In addition, a lienor who has not received payment for
692 furnishing his or her labor, services, or materials must, as a
693 condition precedent to recovery under the bond, serve a written
694 notice of nonpayment on ~~to~~ the contractor and a copy of the
695 notice of nonpayment on the surety. The notice of nonpayment
696 must be under oath and served during the progress of the work or
697 thereafter, but may not be served later than 90 days after the
698 final furnishing of labor, services, or materials by the lienor,
699 or, with respect to rental equipment, later than 90 days after
700 the date the rental equipment was on the ~~job~~ site of the
701 improvement and available for use. A notice of nonpayment that
702 includes sums for retainage must specify the portion of the
703 amount claimed for retainage. The required notice satisfies this

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704 condition precedent with respect to the payment described in the
705 notice of nonpayment, including unpaid finance charges due under
706 the lienor's contract, and with respect to any other payments
707 which become due to the lienor after the date of the notice of
708 nonpayment. The time period for serving a notice of nonpayment
709 ~~is shall be~~ measured from the last day of furnishing labor,
710 services, or materials by the lienor and may not be measured by
711 other standards, such as the issuance of a certificate of
712 occupancy or the issuance of a certificate of substantial
713 completion. The failure of a lienor to receive retainage sums
714 not in excess of 10 percent of the value of labor, services, or
715 materials furnished by the lienor is not considered a nonpayment
716 requiring the service of the notice provided under this
717 paragraph. If the payment bond is not recorded before
718 commencement of construction, the time period for the lienor to
719 serve a notice of nonpayment may at the option of the lienor,
720 be calculated from the date specified in this section or the
721 date the lienor is served a copy of the bond. However, the
722 limitation period for commencement of an action on the payment
723 bond as established in paragraph (e) may not be expanded. The
724 negligent inclusion or omission of any information in the notice
725 of nonpayment that has not prejudiced the contractor or surety
726 does not constitute a default that operates to defeat an
727 otherwise valid bond claim. A lienor who serves a fraudulent
728 notice of nonpayment forfeits his or her rights under the bond.

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729 A notice of nonpayment is fraudulent if the lienor has willfully
730 exaggerated the amount unpaid, willfully included a claim for
731 work not performed or materials not furnished for the subject
732 improvement, or prepared the notice with such willful and gross
733 negligence as to amount to a willful exaggeration. However, a
734 minor mistake or error in a notice of nonpayment, or a good
735 faith dispute as to the amount unpaid, does not constitute a
736 willful exaggeration that operates to defeat an otherwise valid
737 claim against the bond. The service of a fraudulent notice of
738 nonpayment is a complete defense to the lienor's claim against
739 the bond. The notice under this paragraph must include the
740 following information, current as of the date of the notice, and
741 must be in substantially the following form:

742
743 NOTICE OF NONPAYMENT

744
745 To ...(name of contractor and address)...

746
747 ...(name of surety and address)...

748
749 The undersigned lienor notifies you that:

750 1. The lienor has furnished ...(describe labor, services,
751 or materials)... for the improvement of the real property
752 identified as ...(property description).... The corresponding

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753 amount unpaid to date is \$...., of which \$.... is unpaid
754 retainage.

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

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

762
763 I declare that I have read the foregoing Notice of Nonpayment
764 and that the facts stated in it are true to the best of my
765 knowledge and belief.

766
767 DATED on,

768
769 ...(signature and address of lienor)...

770
771 STATE OF FLORIDA
772 COUNTY OF.....

773
774 The foregoing instrument was sworn to (or affirmed) and
775 subscribed before me by means of physical presence or sworn to
776 (or affirmed) by online notarization this day of,
777 ...(year)..., by ...(name of signatory)....

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778 ... (Signature of Notary Public - State of Florida) ...
779 ... (Print, Type, or Stamp Commissioned Name of Notary
780 Public) ...

781
782 Personally Known OR Produced Identification

783
784 Type of Identification Produced

785 (e) An action for the labor, ~~or~~ materials, or supplies may
786 not be instituted or prosecuted against the contractor or surety
787 unless both notices have been given, if required by this
788 section. An action must ~~may not~~ be instituted or prosecuted
789 against the contractor or against the surety on the bond under
790 this section within ~~after~~ 1 year after ~~from~~ the performance of
791 the labor or completion of delivery of the materials and
792 supplies. The time period for bringing an action against the
793 contractor or surety on the bond is ~~shall be~~ measured from the
794 last day of furnishing labor, services, or materials by the
795 lienor. The time period may not be measured by other standards,
796 such as the issuance of a certificate of occupancy or the
797 issuance of a certificate of substantial completion. A
798 contractor or the contractor's attorney may elect to shorten the
799 time within which an action to enforce any claim against a
800 payment bond provided under this section or s. 713.245 must be
801 commenced at any time after a notice of nonpayment, if required,

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802 has been served for the claim by recording in the clerk's office
803 a notice in substantially the following form:

804 NOTICE OF CONTEST OF CLAIM
805 AGAINST PAYMENT BOND

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

807 You are notified that the undersigned contests your notice
808 of nonpayment, dated,, and served on the undersigned
809 on,, and that the time within which you may file suit
810 to enforce your claim is limited to 60 days after ~~from~~ the date
811 of service of this notice.

812 DATED on,

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

814 The claim of any lienor upon whom the notice is served and who
815 fails to institute a suit to enforce his or her claim against
816 the payment bond within 60 days after service of the notice is
817 ~~shall be~~ extinguished automatically. The contractor or the
818 contractor's attorney shall serve, in accordance with s. 713.18,
819 a copy of the notice of contest to the lienor at the address
820 shown in the notice of nonpayment or most recent amendment
821 thereto and shall certify to such service on the face of the
822 notice and record the notice. After the clerk records the notice
823 with the certificate of service, the clerk shall serve, in
824 accordance with s. 713.18, a copy of such recorded notice on the
825 lienor and the contractor or the contractor's attorney. The

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826 clerk of the court shall charge fees for such services as
827 provided by law.

828

829

830 -----

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

832 Remove lines 5-46 and insert:

833 has been recorded; requiring the clerk of the court to
834 charge fees for certain services; revising when a
835 notice of contest of claim against a payment bond must
836 be served; requiring that a copy of a notice of
837 nonpayment be served on the surety; revising the
838 process for notarizing a notice of nonpayment;
839 revising authorized alternative forms of security;
840 requiring service of documents to be made in a
841 specified manner; conforming provisions to changes
842 made by the act; making technical changes; amending s.
843 337.18, F.S.; requiring service of documents to be
844 made in a specified manner; conforming provisions to
845 changes made by the act; amending s. 713.01, F.S.;
846 revising and providing definitions; creating s.
847 713.011, F.S.; providing for the computation of time
848 when certain time periods fall on specified days or
849 during an emergency; amending s. 713.10, F.S.;
850 revising the extent of certain liens; amending s.

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851 713.13, F.S.; conforming a cross-reference; revising
852 the process for notarizing a notice of commencement;
853 making technical changes; amending s. 713.132, F.S.;
854 revising requirements for a notice of termination;
855 revising when an owner may record a notice of
856 termination; specifying when a notice of termination
857 terminates a notice of commencement; amending s.
858 713.135, F.S.; providing a definition; providing
859 applicability; revising the dollar threshold of an
860 exception; providing immunity; amending s. 713.18,
861 F.S.; requiring service of documents relating to
862 construction bonds to be made in a specified manner;
863 authorizing employees or agents of specified entities
864 to receive service of certain documents; making
865 technical changes; amending s. 713.21, F.S.;
866 authorizing the full or partial release of a lien
867 under specified conditions; making technical changes;
868 amending s. 713.22, F.S.; requiring the clerk to serve
869 a copy of a notice of contest of lien on certain
870 persons after it has been recorded; requiring the
871 clerk of the court to charge fees for certain
872 services; making technical changes; amending s.
873 713.23, F.S.; requiring that a copy of a notice of
874 nonpayment be served on the surety; revising the
875 process for notarizing a notice of nonpayment under a

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876 | payment bond; requiring the clerk to serve a copy of a
877 | notice of contest of lien on certain persons after it
878 | has been recorded; requiring the clerk of the court to
879 | charge fees for certain services;

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