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2023 Legislature

1
 2 An act relating to liens and bonds; amending s.
 3 255.05, F.S.; requiring the clerk to serve a copy of a
 4 notice of contest of claim on certain persons after it
 5 has been recorded; requiring the clerk of the court to
 6 charge fees for certain services; revising when a
 7 notice of contest of claim against a payment bond must
 8 be served; requiring that a copy of a notice of
 9 nonpayment be served on the surety; revising the
 10 process for notarizing a notice of nonpayment;
 11 revising authorized alternative forms of security;
 12 requiring service of documents to be made in a
 13 specified manner; conforming provisions to changes
 14 made by the act; making technical changes; amending s.
 15 337.18, F.S.; requiring service of documents to be
 16 made in a specified manner; conforming provisions to
 17 changes made by the act; amending s. 713.01, F.S.;
 18 revising and providing definitions; creating s.
 19 713.011, F.S.; providing for the computation of time
 20 when certain time periods fall on specified days or
 21 during an emergency; amending s. 713.10, F.S.;
 22 revising the extent of certain liens; amending s.
 23 713.13, F.S.; revising the process for notarizing a
 24 notice of commencement; requiring the authority
 25 issuing a building permit to accept a recorded notice

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26 of commencement under certain circumstances;
 27 conforming a cross-reference; making technical
 28 changes; amending s. 713.132, F.S.; revising
 29 requirements for a notice of termination; revising
 30 when an owner may record a notice of termination;
 31 specifying when a notice of termination terminates a
 32 notice of commencement; amending s. 713.135, F.S.;
 33 providing a definition; providing applicability;
 34 revising the dollar threshold of an exception;
 35 providing immunity; amending s. 713.18, F.S.;
 36 requiring service of documents relating to
 37 construction bonds to be made in a specified manner;
 38 authorizing employees or agents of specified entities
 39 to receive service of certain documents; making
 40 technical changes; amending s. 713.21, F.S.;
 41 authorizing the full or partial release of a lien
 42 under specified conditions; making technical changes;
 43 amending s. 713.22, F.S.; requiring the clerk to serve
 44 a copy of a notice of contest of lien on certain
 45 persons after it has been recorded; requiring the
 46 clerk of the court to charge fees for certain
 47 services; making technical changes; amending s.
 48 713.23, F.S.; requiring that a copy of a notice of
 49 nonpayment be served on the surety; revising the
 50 process for notarizing a notice of nonpayment under a

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51 payment bond; requiring the clerk to serve a copy of a
 52 notice of contest of lien on certain persons after it
 53 has been recorded; requiring the clerk of the court to
 54 charge fees for certain services; amending s. 713.24,
 55 F.S.; revising the amount required in addition to the
 56 deposit or bond that applies toward attorney fees and
 57 court costs; requiring the clerk to make a copy of the
 58 deposit or bond used to transfer a lien to other
 59 security and mail it to the lienor; making technical
 60 changes; repealing s. 713.25, F.S., relating to
 61 applicability of ch. 65-456, Laws of Florida; amending
 62 s. 713.29, F.S.; authorizing attorney fees in actions
 63 brought to enforce a lien that has been transferred to
 64 security; making technical changes; providing an
 65 effective date.

66
 67 Be It Enacted by the Legislature of the State of Florida:

68
 69 Section 1. Paragraph (a) of subsection (2) and subsection
 70 (7) of section 255.05, Florida Statutes, are amended, and
 71 subsection (12) is added to that section, to read:

72 255.05 Bond of contractor constructing public buildings;
 73 form; action by claimants.—

74 (2)(a)1. If a claimant is no longer furnishing labor,
 75 services, or materials on a project, a contractor or the

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76 contractor's agent or attorney may elect to shorten the time
77 within which an action to enforce any claim against a payment
78 bond must be commenced by recording in the clerk's office a
79 notice in substantially the following form:

80
81 NOTICE OF CONTEST OF CLAIM
82 AGAINST PAYMENT BOND
83

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

85
86 You are notified that the undersigned contests your notice
87 of nonpayment, dated,, and served on the
88 undersigned on,, and that the time within
89 which you may file suit to enforce your claim is limited to 60
90 days after the date of service of this notice.

91
92 DATED on,

93
94 Signed: ...(Contractor or Attorney)...

95
96 The claim of a claimant upon whom such notice is served and who
97 fails to institute a suit to enforce his or her claim against
98 the payment bond within 60 days after service of such notice is
99 extinguished automatically. The contractor or the contractor's
100 attorney shall serve a copy of the notice of contest on ~~to~~ the

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101 claimant at the address shown in the notice of nonpayment or
 102 most recent amendment thereto and shall certify to such service
 103 on the face of the notice and record the notice. After the clerk
 104 records the notice with the certificate of service, the clerk
 105 shall serve, in accordance with s. 713.18, a copy of such
 106 recorded notice on the claimant and the contractor or the
 107 contractor's attorney. The clerk of the court shall charge fees
 108 for such services as provided by law.

109 2. A claimant, except a laborer, who is not in privity
 110 with the contractor shall, before commencing or not later than
 111 45 days after commencing to furnish labor, services, or
 112 materials for the prosecution of the work, serve the contractor
 113 with a written notice that he or she intends to look to the bond
 114 for protection. If the payment bond is not recorded before the
 115 commencement of work or before the recommencement of work after
 116 a default or abandonment as required by subsection (1), the
 117 claimant may serve the contractor with such written notice up to
 118 45 days after the date that the claimant is served with a copy
 119 of the bond. A claimant who is not in privity with the
 120 contractor and who has not received payment for furnishing his
 121 or her labor, services, or materials shall serve a written
 122 notice of nonpayment on the contractor and a copy of the notice
 123 of nonpayment on the surety. The notice of nonpayment ~~must~~ shall
 124 be under oath and served during the progress of the work or
 125 thereafter but may not be served earlier than 45 days after the

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126 first furnishing of labor, services, or materials by the
 127 claimant or later than 90 days after the final furnishing of the
 128 labor, services, or materials by the claimant or, with respect
 129 to rental equipment, later than 90 days after the date that the
 130 rental equipment was last on the ~~job~~ site of the improvement and
 131 available for use. Any notice of nonpayment served by a claimant
 132 who is not in privity with the contractor which includes sums
 133 for retainage must specify the portion of the amount claimed for
 134 retainage. An action for the labor, services, or materials may
 135 not be instituted against the contractor or the surety unless
 136 the notice to the contractor and notice of nonpayment have been
 137 served, if required by this section. Notices required or
 138 permitted under this section must be served in accordance with
 139 s. 713.18. A claimant may not waive in advance his or her right
 140 to bring an action under the bond against the surety. In any
 141 action brought to enforce a claim against a payment bond under
 142 this section, the prevailing party is entitled to recover a
 143 reasonable fee for the services of his or her attorney for trial
 144 and appeal or for arbitration, in an amount to be determined by
 145 the court or arbitrator, which fee must be taxed as part of the
 146 prevailing party's costs, as allowed in equitable actions. The
 147 time periods for service of a notice of nonpayment or for
 148 bringing an action against a contractor or a surety are ~~shall be~~
 149 measured from the last day of furnishing labor, services, or
 150 materials by the claimant and may not be measured by other

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151 standards, such as the issuance of a certificate of occupancy or
 152 the issuance of a certificate of substantial completion. The
 153 negligent inclusion or omission of any information in the notice
 154 of nonpayment that has not prejudiced the contractor or surety
 155 does not constitute a default that operates to defeat an
 156 otherwise valid bond claim. A claimant who serves a fraudulent
 157 notice of nonpayment forfeits his or her rights under the bond.
 158 A notice of nonpayment is fraudulent if the claimant has
 159 willfully exaggerated the amount unpaid, willfully included a
 160 claim for work not performed or materials not furnished for the
 161 subject improvement, or prepared the notice with such willful
 162 and gross negligence as to amount to a willful exaggeration.
 163 However, a minor mistake or error in a notice of nonpayment, or
 164 a good faith dispute as to the amount unpaid, does not
 165 constitute a willful exaggeration that operates to defeat an
 166 otherwise valid claim against the bond. The service of a
 167 fraudulent notice of nonpayment is a complete defense to the
 168 claimant's claim against the bond. The notice of nonpayment
 169 under this subparagraph must include the following information,
 170 current as of the date of the notice, and must be in
 171 substantially the following form:

172
 173 NOTICE OF NONPAYMENT

174
 175 To: ... (name of contractor and address)...

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

The undersigned claimant notifies you that:

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

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

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

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

DATED on,

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

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201 STATE OF FLORIDA
202 COUNTY OF

203
204 The foregoing instrument was sworn to (or affirmed) and
205 subscribed before me by means of physical presence or sworn to
206 (or affirmed) by online notarization this day of,
207 ...(year)...., by ...(name of signatory)....

208
209 ... (Signature of Notary Public - State of Florida) ...
210 ... (Print, Type, or Stamp Commissioned Name of Notary
211 Public) ...

212
213 Personally Known OR Produced Identification

214
215 Type of Identification Produced

216 (7) In lieu of the bond required by this section, a
217 contractor may file with the state, county, city, or other
218 political authority an alternative form of security in the form
219 of cash; ~~;~~ a money order; ~~;~~ a certified check; ~~;~~ a cashier's
220 check; ~~;~~ ~~an irrevocable letter of credit,~~ or a domestic corporate
221 bond, note, or debenture as authorized in s. 625.317 ~~security of~~
222 ~~a type listed in part II of chapter 625.~~ Any such alternative
223 form of security is ~~shall be~~ for the same purpose and ~~be~~ subject
224 to the same conditions as those applicable to the bond required
225 by this section. The ~~determination of the value of an~~

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226 ~~alternative form of security shall be made by the~~ appropriate
 227 state, county, city, or other political subdivision shall
 228 determine the required value of an alternative form of security.

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

231 Section 2. Paragraph (c) of subsection (1) of section
 232 337.18, Florida Statutes, is amended, and subsection (6) is
 233 added to that section, to read:

234 337.18 Surety bonds for construction or maintenance
 235 contracts; requirement with respect to contract award; bond
 236 requirements; defaults; damage assessments.—

237 (1)

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

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251 later than 90 days after the final furnishing of the labor,
 252 services, or materials by the claimant or, with respect to
 253 rental equipment, not later than 90 days after the date that the
 254 rental equipment was last on the ~~job~~ site of the improvement and
 255 available for use. An action by a claimant, except a laborer,
 256 who is not in privity with the contractor for the labor,
 257 materials, or supplies may not be instituted against the
 258 contractor or the surety unless both notices have been given.
 259 Written notices required or permitted under this section must
 260 ~~may~~ be served in accordance with ~~any manner provided in~~ s.
 261 713.18.

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

264 Section 3. Subsections (13) through (29) of section
 265 713.01, Florida Statutes, are renumbered as subsections (14)
 266 through (30), respectively, subsections (4), (8), and (12) are
 267 amended, and a new subsection (13) is added to that section, to
 268 read:

269 713.01 Definitions.—As used in this part, the term:

270 (4) "Clerk's office" means the office of the clerk of the
 271 circuit court of the county, or another office serving as the
 272 county recorder as provided by law, in which the real property
 273 is located.

274 (8) "Contractor" means a person other than a materialman
 275 or laborer who enters into a contract with the owner of real

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276 | property for improving it, or who takes over from a contractor
 277 | as so defined the entire remaining work under such contract. The
 278 | term "contractor" includes an architect, landscape architect, or
 279 | engineer who improves real property pursuant to a design-build
 280 | contract authorized by s. 489.103(16). The term also includes a
 281 | licensed general contractor or building contractor, as those
 282 | terms are defined in s. 489.105(3)(a) and (b), respectively, who
 283 | provides construction management services, which include
 284 | scheduling and coordinating preconstruction and construction
 285 | phases for the construction project, or who provides program
 286 | management services, which include schedule control, cost
 287 | control, and coordinating the provision or procurement of
 288 | planning, design, and construction for the construction project.

289 | (12) "Final furnishing" means the last date that the
 290 | lienor furnishes labor, services, or materials. Such date may
 291 | not be measured by other standards, such as the issuance of a
 292 | certificate of occupancy or the issuance of a certificate of
 293 | final completion, and does not include the correction of
 294 | deficiencies in the lienor's previously performed work or
 295 | materials supplied. With respect to rental equipment, the term
 296 | means the date that the rental equipment was last on the ~~job~~
 297 | site of the improvement and available for use.

298 | (13) "Finance charge" means a contractually specified
 299 | additional amount to be paid by the obligor on any balance that
 300 | remains unpaid by the due date set forth in the credit agreement

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301 or other contract.

302 Section 4. Section 713.011, Florida Statutes, is created
303 to read:

304 713.011 Computation of time.—

305 (1) In computing any time period under this part, if the
306 last day of the time period is a Saturday, Sunday, or holiday
307 specified in s. 110.117(1), or any day observed as a holiday by
308 the clerk's office or designated as a holiday by the chief judge
309 of the circuit, the time period is extended to the end of the
310 next business day.

311 (2) If the clerk's office is closed in response to an
312 emergency for 1 or more days so that a person may not present a
313 document for recording or an action for filing in person to the
314 clerk's staff, the time period for recording a document or
315 filing an action with the clerk's office under this part is
316 tolled. When the clerk's office reopens, the time period is
317 extended by the number of days the clerk's office was closed.

318 Section 5. Paragraph (b) of subsection (2) of section
319 713.10, Florida Statutes, is amended, and subsection (4) is
320 added to that section, to read:

321 713.10 Extent of liens.—

322 (2)

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

325 1. The lease, or a short form or a memorandum of the lease

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326 that contains the specific language in the lease prohibiting
 327 such liability, is recorded in the official records of the
 328 county where the premises are located before the recording of a
 329 notice of commencement for improvements to the premises and the
 330 terms of the lease expressly prohibit such liability; or

331 2. The terms of the lease expressly prohibit such
 332 liability, and a notice advising that leases for the rental of
 333 premises on a parcel of land prohibit such liability has been
 334 recorded in the official records of the county in which the
 335 parcel of land is located before the recording of a notice of
 336 commencement for improvements to the premises, and the notice
 337 includes the following:

338 a. The name of the lessor.

339 b. The legal description of the parcel of land to which
 340 the notice applies.

341 c. The specific language contained in the various leases
 342 prohibiting such liability.

343 d. A statement that all or a majority of the leases
 344 entered into for premises on the parcel of land expressly
 345 prohibit such liability.

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

348
 349 A notice that is consistent with subparagraph 2. effectively
 350 prohibits liens for improvements made by a lessee even if other

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351 leases for premises on the parcel do not expressly prohibit
 352 liens or if provisions of each lease restricting the application
 353 of liens are not identical.

354 (4) The interest of the lessor is not subject to liens for
 355 improvements made by the lessee when the lessee is a mobile home
 356 owner who is leasing a mobile home lot in a mobile home park
 357 from the lessor.

358 Section 6. Paragraphs (a) and (d) of subsection (1) of
 359 section 713.13, Florida Statutes, are amended, and paragraph (h)
 360 is added to that subsection, to read:

361 713.13 Notice of commencement.—

362 (1)(a) Except for an improvement that is exempt under
 363 ~~pursuant to~~ s. 713.02(5), an owner or the owner's authorized
 364 agent before actually commencing to improve any real property,
 365 or recommencing completion of any improvement after default or
 366 abandonment, whether or not a project has a payment bond
 367 complying with s. 713.23, shall record a notice of commencement
 368 in the clerk's office and ~~forthwith~~ post either a certified copy
 369 thereof or a notarized statement that the notice of commencement
 370 has been filed for recording along with a copy thereof. The
 371 notice of commencement must ~~shall~~ contain all of the following
 372 information:

373 1. A description sufficient for identification of the real
 374 property to be improved. The description must ~~should~~ include the
 375 legal description of the property and ~~also should include the~~

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376 street address and tax folio number of the property if available
 377 or, if the ~~there is no~~ street address is not available, such
 378 additional information as will describe the physical location of
 379 the real property to be improved.

380 2. A general description of the improvement.

381 3. The name and address of the owner, the owner's interest
 382 in the site of the improvement, and the name and address of the
 383 fee simple titleholder, if other than such owner. A lessee who
 384 contracts for the improvements is an owner as defined in s.
 385 713.01 ~~under s. 713.01(23)~~ and must be listed as the owner
 386 together with a statement that the ownership interest is a
 387 leasehold interest.

388 4. The name and address of the contractor.

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

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

393 7. The name and address within the state of a person other
 394 than himself or herself who may be designated by the owner as
 395 the person upon whom notices or other documents may be served
 396 under this part; and service upon the person so designated
 397 constitutes service upon the owner.

398 (d) A notice of commencement must be in substantially the
 399 following form:

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401 Permit No..... Tax Folio No.....

402 NOTICE OF COMMENCEMENT

403 State of....

404 County of....

405

406 The undersigned hereby gives notice that improvement will be
407 made to certain real property, and in accordance with Chapter
408 713, Florida Statutes, the following information is provided in
409 this Notice of Commencement.

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

412 2. General description of improvement:.....

413 3. Owner information or Lessee information if the Lessee
414 contracted for the improvement:

415 a. Name and address:.....

416 b. Interest in property:.....

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

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

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

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

423 a. Name and address:.....

424 b. Phone number:.....

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

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426 6.a. Lender: ...(name and address)....
 427 b. Lender's phone number:.....
 428 7. Persons within the State of Florida designated by Owner
 429 upon whom notices or other documents may be served as provided
 430 by Section 713.13(1)(a)7., Florida Statutes:
 431 a. Name and address:.....
 432 b. Phone numbers of designated persons:.....
 433 8.a. In addition to himself or herself, Owner designates
 434 of to receive a copy of the Lienor's
 435 Notice as provided in Section 713.13(1)(b), Florida Statutes.
 436 b. Phone number of person or entity designated by
 437 owner:.....
 438 9. Expiration date of notice of commencement (the
 439 expiration date will be 1 year after ~~from~~ the date of recording
 440 unless a different date is specified).....
 441
 442 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE
 443 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER
 444 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA
 445 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS
 446 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
 447 POSTED ON THE ~~JOB~~ SITE OF THE IMPROVEMENT BEFORE THE FIRST
 448 INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR
 449 LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR
 450 NOTICE OF 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 sworn to (or affirmed) by 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.....

(h) The authority issuing a building permit must accept a
recorded notice of commencement from an owner or the owner's
authorized agent if the notice of commencement is in the form
provided in paragraph (d).

Section 7. Subsections (1), (3), and (4) of section

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476 713.132, Florida Statutes, are amended to read:

477 713.132 Notice of termination.—

478 (1) An owner may terminate the period of effectiveness of
 479 a notice of commencement by executing, swearing to, and
 480 recording a notice of termination that contains all of the
 481 following:

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

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

487 (c) A statement of the date as of which the notice of
 488 commencement is terminated, which date may not be earlier than
 489 30 days after the notice of termination is recorded.†

490 (d) A statement specifying that the notice applies to all
 491 the real property subject to the notice of commencement or
 492 specifying the portion of such real property to which it
 493 applies.†

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

496 (f) A statement that the owner has, before recording the
 497 notice of termination, served a copy of the notice of
 498 termination ~~on the contractor and~~ on each lienor who has a
 499 direct contract with the owner or who has timely served a notice
 500 to owner, and a statement that the owner will serve a copy of

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501 the notice of termination on each lienor who timely serves a
 502 notice to owner after the notice of termination has been
 503 recorded. The owner is not required to serve a copy of the
 504 notice of termination on any lienor who has executed a waiver
 505 and release of lien upon final payment in accordance with s.
 506 713.20.

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

511 (4) If an owner or a contractor, by fraud or collusion,
 512 knowingly makes any fraudulent statement or affidavit in a
 513 notice of termination or any accompanying affidavit, the owner
 514 and the contractor, or either of them, ~~as the case may be,~~ is
 515 liable to any lienor who suffers damages as a result of the
 516 filing of the fraudulent notice of termination, ~~and~~ and any such
 517 lienor has a right of action for damages ~~occasioned thereby.~~

518 ~~(5)-(4)~~ A notice of termination must be served before
 519 recording on each lienor who has a direct contract with the
 520 owner and on each lienor who has timely and properly served a
 521 notice to owner in accordance with this part before the
 522 recording of the notice of termination. A notice of termination
 523 must be recorded in the official records of the county in which
 524 the improvement is located. If properly served before recording
 525 in accordance with this subsection, the notice of termination

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526 terminates the period of effectiveness of the notice of
 527 commencement 30 days after the notice of termination is recorded
 528 in the official records ~~is effective to terminate the notice of~~
 529 ~~commencement at the later of 30 days after recording of the~~
 530 ~~notice of termination or a later~~ the date stated in the notice
 531 of termination as the date on which the notice of commencement
 532 is terminated. However, if a lienor who began work under the
 533 notice of commencement before its termination lacks a direct
 534 contract with the owner and timely serves his or her notice to
 535 owner after the notice of termination has been recorded, the
 536 owner must serve a copy of the notice of termination upon such
 537 lienor, and the termination of the notice of commencement as to
 538 that lienor is effective 30 days after service of the notice of
 539 termination, ~~if the notice of termination has been served~~
 540 ~~pursuant to paragraph (1) (f) on the contractor and on each~~
 541 ~~lienor who has a direct contract with the owner or who has~~
 542 ~~served a notice to owner.~~

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

545 713.135 Notice of commencement and applicability of lien.—

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

548 (a) Print on the face of each permit card in no less than
 549 14-point, capitalized, boldfaced type: "WARNING TO OWNER: YOUR
 550 FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR

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551 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF
 552 COMMENCEMENT MUST BE RECORDED AND POSTED ON THE ~~JOB~~ SITE OF THE
 553 IMPROVEMENT BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN
 554 FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE
 555 RECORDING YOUR NOTICE OF COMMENCEMENT."

556 (b) Provide the applicant and the owner of the real
 557 property upon which improvements are to be constructed with a
 558 printed statement stating that the right, title, and interest of
 559 the person who has contracted for the improvement may be subject
 560 to attachment under the Construction Lien Law. The Department of
 561 Business and Professional Regulation shall furnish, for
 562 distribution, the statement described in this paragraph, and the
 563 statement must be a summary of the Construction Lien Law and
 564 must include an explanation of the provisions of the
 565 Construction Lien Law relating to the recording, and the posting
 566 of copies, of notices of commencement and a statement
 567 encouraging the owner to record a notice of commencement and
 568 post a copy of the notice of commencement in accordance with s.
 569 713.13. The statement must also contain an explanation of the
 570 owner's rights if a lienor fails to furnish the owner with a
 571 notice as provided in s. 713.06(2) and an explanation of the
 572 owner's rights as provided in s. 713.22. The authority that
 573 issues the building permit must obtain from the Department of
 574 Business and Professional Regulation the statement required by
 575 this paragraph and must mail, deliver by electronic mail or

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576 other electronic format or facsimile, or personally deliver that
 577 statement to the owner or, in a case in which the owner is
 578 required to personally appear to obtain the permit, provide that
 579 statement to any owner making improvements to real property
 580 consisting of a single or multiple family dwelling up to and
 581 including four units. However, the failure by the authorities to
 582 provide the summary does not subject the issuing authority to
 583 liability.

584 (c) In addition to providing the owner with the statement
 585 as required by paragraph (b), inform each applicant who is not
 586 the person whose right, title, and interest is subject to
 587 attachment that, as a condition to the issuance of a building
 588 permit, the applicant must promise in good faith that the
 589 statement will be delivered to the person whose property is
 590 subject to attachment.

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

593 (e) Require ~~If the direct contract is greater than \$2,500,~~
 594 the applicant to ~~shall~~ file with the issuing authority before
 595 ~~prior to~~ the first inspection ~~either a certified copy of the~~
 596 ~~recorded~~ notice of commencement if the direct contract is
 597 greater than \$5,000. For purposes of this paragraph, the term
 598 "copy of the notice of commencement" means a certified copy of
 599 the recorded notice of commencement, ~~or~~ a notarized statement
 600 that the notice of commencement has been filed for recording.

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601 along with a copy thereof, or the clerk's office's official
602 records identifying information that includes the instrument
603 number for the notice of commencement or the number and page of
604 book where the notice of commencement is recorded, as identified
605 by the clerk.

606 1. In the absence of the filing of a ~~certified~~ copy of the
607 ~~recorded~~ notice of commencement, the issuing authority or a
608 private provider performing inspection services may not perform
609 or approve subsequent inspections until the applicant files by
610 mail, facsimile, hand delivery, or any other means such
611 ~~certified~~ copy with the issuing authority.

612 2. The ~~certified~~ copy of the notice of commencement must
613 contain the name and address of the owner, the name and address
614 of the contractor, and the location or address of the property
615 being improved. The issuing authority shall verify that the name
616 and address of the owner, the name of the contractor, and the
617 location or address of the property being improved which is
618 contained in the ~~certified~~ copy of the notice of commencement is
619 consistent with the information in the building permit
620 application.

621 3. The issuing authority shall provide the recording
622 information on the ~~certified~~ copy of the ~~recorded~~ notice of
623 commencement to any person upon request.

624 4. This paragraph ~~subsection~~ does not require the
625 recording of a notice of commencement before ~~prior to~~ the

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626 issuance of a building permit. If a local government requires a
 627 separate permit or inspection for installation of temporary
 628 electrical service or other temporary utility service, land
 629 clearing, or other preliminary site work, such permits may be
 630 issued and such inspections may be conducted without providing
 631 the issuing authority with a ~~certified~~ copy of the ~~a recorded~~
 632 notice of commencement ~~or a notarized statement regarding a~~
 633 ~~recorded notice of commencement. This subsection does not apply~~
 634 ~~to a direct contract to repair or replace an existing heating or~~
 635 ~~air-conditioning system in an amount less than \$15,000.~~

636 (f) ~~(e)~~ Not require that a notice of commencement be
 637 recorded as a condition of the application for, or processing or
 638 issuance of, a building permit. However, this paragraph does not
 639 modify or waive the inspection requirements set forth in this
 640 subsection.

641
 642 This subsection does not apply to a direct contract to repair or
 643 replace an existing heating or air-conditioning system in an
 644 amount less than \$15,000.

645 (3) An issuing authority under subsection (1) is not
 646 liable in any civil action for the failure to verify that a
 647 certified copy of the recorded notice of commencement, a
 648 notarized statement that the notice of commencement has been
 649 filed for recording along with a copy thereof, or the clerk's
 650 office's official records identifying information that includes

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651 the instrument number for the notice of commencement or the
652 number and page of book where the notice of commencement is
653 recorded, as identified by the clerk, has been filed in
654 accordance with this section.

655 Section 9. Section 713.18, Florida Statutes, is amended to
656 read:

657 713.18 Manner of serving documents ~~notices and other~~
658 ~~instruments.~~-

659 (1) Unless otherwise specifically provided by law, service
660 of any document ~~notices, claims of lien, affidavits,~~
661 ~~assignments, and other instruments~~ permitted or required under
662 this part, s. 255.05, or s. 337.18, or copies thereof when so
663 permitted or required, ~~unless otherwise specifically provided in~~
664 ~~this part,~~ must be made by one of the following methods:

665 (a) By hand ~~actual~~ delivery to the person to be served; if
666 a partnership, to one of the partners; if a corporation, to an
667 officer or, director, ~~managing agent, or business agent; or,~~ if
668 a limited liability company, to a member or manager; or to an
669 employee or agent authorized by the partnership, corporation, or
670 limited liability company to receive service of such document.

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

675 (c) By posting on the site of the improvement if service

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676 as provided by paragraph (a) or paragraph (b) cannot be
 677 accomplished.

678 (2) Notwithstanding subsection (1), service of a notice to
 679 owner or a preliminary notice to contractor under this part, s.
 680 255.05, or s. 337.18,~~or s. 713.23~~ is effective as of the date
 681 of mailing and the requirements for service under this section
 682 have been satisfied if all of the following requirements have
 683 been met:

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

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

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

696 2. The person who served the notice maintains ~~electronic~~
 697 tracking records approved or generated by the United States
 698 Postal Service containing the postal tracking number, ~~the name~~
 699 ~~and address of the person served,~~ and verification of the date
 700 of receipt by the United States Postal Service.

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701 (3) (a) Notwithstanding subsection (1), service of a
 702 document under an instrument pursuant to this section is
 703 effective on the date of mailing or shipping, and the
 704 requirements for service under this section have been satisfied,
 705 the instrument if the document meets both of the following
 706 requirements it:

707 1. It is sent to the last address shown in the notice of
 708 commencement or any amendment thereto or, in the absence of a
 709 notice of commencement, to the last address shown in the
 710 building permit application, or to the last known address of the
 711 person to be served.~~;~~ ~~and~~

712 2. It is returned as being "refused," "moved, not
 713 forwardable," or "unclaimed," or is otherwise not delivered or
 714 deliverable through no fault of the person serving the document
 715 ~~item~~.

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

725 (4) A document ~~notice~~ served by a lienor on one owner or

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726 one partner of a partnership owning the real property is deemed
 727 served on ~~notice to~~ all owners and partners.

728 Section 10. Section 713.21, Florida Statutes, is amended
 729 to read:

730 713.21 Discharge of lien.—A lien properly perfected under
 731 this chapter may be discharged, or released in whole or in part,
 732 by any of the following methods:

733 (1) By entering satisfaction of the lien upon the margin
 734 of the record thereof in the clerk's office when not otherwise
 735 prohibited by law. This satisfaction must ~~shall~~ be signed by the
 736 lienor or, the lienor's agent or attorney and attested by said
 737 clerk. Any person who executes a claim of lien has ~~shall have~~
 738 authority to execute a satisfaction in the absence of actual
 739 notice of lack of authority to any person relying on the same.

740 (2) By the satisfaction or release of the lienor, duly
 741 acknowledged and recorded in the clerk's office. The
 742 satisfaction or release must include the lienor's notarized
 743 signature and set forth the official records' reference number
 744 and recording date affixed by the recording office on the
 745 subject lien. Any person who executes a claim of lien has ~~shall~~
 746 ~~have~~ authority to execute a satisfaction or release in the
 747 absence of actual notice of lack of authority to any person
 748 relying on the same.

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

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751 (4) By an order of the circuit court of the county where
 752 the property is located, as provided in this subsection. Upon
 753 filing a complaint ~~therefor~~ by any interested party the clerk
 754 shall issue a summons to the lienor to show cause within 20 days
 755 after service of the summons why his or her lien should not be
 756 enforced by action or vacated and canceled of record. Upon
 757 failure of the lienor to show cause why his or her lien should
 758 not be enforced or the lienor's failure to commence such action
 759 before the return date of the summons the court shall ~~forthwith~~
 760 order cancellation of the lien.

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

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

766 713.22 Duration of lien.—

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

772 NOTICE OF CONTEST OF LIEN

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

774 You are notified that the undersigned contests the claim of lien
 775 filed by you on, ... (year) ..., and recorded in Book

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776 , Page , of the public records of County, Florida,
 777 and that the time within which you may file suit to enforce your
 778 lien is limited to 60 days from the date of service of this
 779 notice. This day of , . . . (year)

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

781 The lien of any lienor upon whom such notice is served and who
 782 fails to institute a suit to enforce his or her lien within 60
 783 days after service of such notice is shall be extinguished
 784 automatically. The clerk shall serve, in accordance with s.
 785 713.18, a copy of the notice of contest on to the lienor lien
 786 claimant at the address shown in the claim of lien or most
 787 recent amendment thereto and shall certify to such service and
 788 the date of service on the face of the notice and record the
 789 notice. After the clerk records the notice with the certificate
 790 of service, the clerk shall serve, in accordance with s. 713.18,
 791 a copy of such recorded notice on the lienor and the owner or
 792 the owner's attorney. The clerk of the court shall charge fees
 793 for such services as provided by law.

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

796 713.23 Payment bond.—

797 (1)

798 (d) In addition, a lienor who has not received payment for
 799 furnishing his or her labor, services, or materials must, as a
 800 condition precedent to recovery under the bond, serve a written

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801 notice of nonpayment ~~on~~ to the contractor and a copy of the
802 notice of nonpayment on the surety. The notice of nonpayment
803 must be under oath and served during the progress of the work or
804 thereafter, but may not be served later than 90 days after the
805 final furnishing of labor, services, or materials by the lienor,
806 or, with respect to rental equipment, later than 90 days after
807 the date the rental equipment was on the ~~job~~ site of the
808 improvement and available for use. A notice of nonpayment that
809 includes sums for retainage must specify the portion of the
810 amount claimed for retainage. The required notice satisfies this
811 condition precedent with respect to the payment described in the
812 notice of nonpayment, including unpaid finance charges due under
813 the lienor's contract, and with respect to any other payments
814 which become due to the lienor after the date of the notice of
815 nonpayment. The time period for serving a notice of nonpayment
816 is ~~shall be~~ measured from the last day of furnishing labor,
817 services, or materials by the lienor and may not be measured by
818 other standards, such as the issuance of a certificate of
819 occupancy or the issuance of a certificate of substantial
820 completion. The failure of a lienor to receive retainage sums
821 not in excess of 10 percent of the value of labor, services, or
822 materials furnished by the lienor is not considered a nonpayment
823 requiring the service of the notice provided under this
824 paragraph. If the payment bond is not recorded before
825 commencement of construction, the time period for the lienor to

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826 | serve a notice of nonpayment may^l, at the option of the lienor^l,
 827 | be calculated from the date specified in this section or the
 828 | date the lienor is served a copy of the bond. However, the
 829 | limitation period for commencement of an action on the payment
 830 | bond as established in paragraph (e) may not be expanded. The
 831 | negligent inclusion or omission of any information in the notice
 832 | of nonpayment that has not prejudiced the contractor or surety
 833 | does not constitute a default that operates to defeat an
 834 | otherwise valid bond claim. A lienor who serves a fraudulent
 835 | notice of nonpayment forfeits his or her rights under the bond.
 836 | A notice of nonpayment is fraudulent if the lienor has willfully
 837 | exaggerated the amount unpaid, willfully included a claim for
 838 | work not performed or materials not furnished for the subject
 839 | improvement, or prepared the notice with such willful and gross
 840 | negligence as to amount to a willful exaggeration. However, a
 841 | minor mistake or error in a notice of nonpayment, or a good
 842 | faith dispute as to the amount unpaid, does not constitute a
 843 | willful exaggeration that operates to defeat an otherwise valid
 844 | claim against the bond. The service of a fraudulent notice of
 845 | nonpayment is a complete defense to the lienor's claim against
 846 | the bond. The notice under this paragraph must include the
 847 | following information, current as of the date of the notice, and
 848 | must be in substantially the following form:

850 | NOTICE OF NONPAYMENT

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

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

The undersigned lienor notifies you that:

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

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

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

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

DATED on,

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

877

878 STATE OF FLORIDA

879 COUNTY OF.....

880

881 The foregoing instrument was sworn to (or affirmed) and
882 subscribed before me by means of physical presence or sworn to
883 (or affirmed) by online notarization this day of,
884 ...(year)...., by ...(name of signatory)....

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

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

888

889 Personally Known OR Produced Identification

890

891 Type of Identification Produced

892 (e) An action for the labor, ~~or~~ materials, or supplies may
893 not be instituted or prosecuted against the contractor or surety
894 unless both notices have been given, if required by this
895 section. An action must ~~may not~~ be instituted or prosecuted
896 against the contractor or against the surety on the bond under
897 this section within ~~after~~ 1 year after ~~from~~ the performance of
898 the labor or completion of delivery of the materials and
899 supplies. The time period for bringing an action against the
900 contractor or surety on the bond is ~~shall be~~ measured from the

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901 last day of furnishing labor, services, or materials by the
 902 lienor. The time period may not be measured by other standards,
 903 such as the issuance of a certificate of occupancy or the
 904 issuance of a certificate of substantial completion. A
 905 contractor or the contractor's attorney may elect to shorten the
 906 time within which an action to enforce any claim against a
 907 payment bond provided under this section or s. 713.245 must be
 908 commenced at any time after a notice of nonpayment, if required,
 909 has been served for the claim by recording in the clerk's office
 910 a notice in substantially the following form:

911 NOTICE OF CONTEST OF CLAIM

912 AGAINST PAYMENT BOND

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

914 You are notified that the undersigned contests your notice
 915 of nonpayment, dated,, and served on the undersigned
 916 on,, and that the time within which you may file suit
 917 to enforce your claim is limited to 60 days after ~~from~~ the date
 918 of service of this notice.

919 DATED on,

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

921 The claim of any lienor upon whom the notice is served and who
 922 fails to institute a suit to enforce his or her claim against
 923 the payment bond within 60 days after service of the notice is
 924 ~~shall be~~ extinguished automatically. The contractor or the
 925 contractor's attorney shall serve, in accordance with s. 713.18,

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926 a copy of the notice of contest to the lienor at the address
 927 shown in the notice of nonpayment or most recent amendment
 928 thereto and shall certify to such service on the face of the
 929 notice and record the notice. After the clerk records the notice
 930 with the certificate of service, the clerk shall serve, in
 931 accordance with s. 713.18, a copy of such recorded notice on the
 932 lienor and the contractor or the contractor's attorney. The
 933 clerk of the court shall charge fees for such services as
 934 provided by law.

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

937 713.24 Transfer of liens to security.—

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

942 (a) Depositing in the clerk's office a sum of money; ~~or~~

943 (b) Filing in the clerk's office a bond executed as surety
 944 by a surety insurer licensed to do business in this state,

945
 946 ~~either to be~~ in an amount equal to the amount demanded in such
 947 claim of lien, plus interest thereon at the legal rate for 3
 948 years, plus \$5,000 ~~\$1,000~~ or 25 percent of the amount demanded
 949 in the claim of lien, whichever is greater, to apply on any
 950 attorney ~~attorney's~~ fees and court costs that may be taxed in

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951 any proceeding to enforce said lien. Such deposit or bond must
 952 ~~shall~~ be conditioned to pay any judgment or decree which may be
 953 rendered for the satisfaction of the lien for which such claim
 954 of lien was recorded. Upon making such deposit or filing such
 955 bond, the clerk shall make and record a certificate, which must
 956 include a copy of the deposit or bond used to transfer, showing
 957 the transfer of the lien from the real property to the security
 958 and shall mail a copy thereof together with a copy of the
 959 deposit or bond used to transfer by registered or certified mail
 960 to the lienor named in the claim of lien so transferred, at the
 961 address stated therein. Upon filing the certificate of transfer,
 962 the real property is ~~shall thereupon be~~ released from the lien
 963 claimed, and such lien is ~~shall be~~ transferred to said security.
 964 In the absence of allegations of privity between the lienor and
 965 the owner, and subject to any order of the court increasing the
 966 amount required for the lien transfer deposit or bond, no other
 967 judgment or decree to pay money may be entered by the court
 968 against the owner. The clerk is ~~shall be~~ entitled to a service
 969 charge for making and serving the certificate, in the amount of
 970 up to \$20, from which the clerk shall remit \$5 to the Department
 971 of Revenue for deposit into the General Revenue Fund. If the
 972 transaction involves the transfer of multiple liens, the clerk
 973 shall charge an additional service charge of up to \$10 for each
 974 additional lien ~~shall be charged,~~ from which the clerk shall
 975 remit \$2.50 to the Department of Revenue for deposit into the

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976 General Revenue Fund. For recording the certificate and
 977 approving the bond, the clerk shall receive her or his usual
 978 statutory service charges as prescribed in s. 28.24. Any number
 979 of liens may be transferred to one such security.

980 (3) Any party having an interest in such security or the
 981 property from which the lien was transferred may at any time,
 982 and any number of times, file a complaint in chancery in the
 983 circuit court of the county where such security is deposited, or
 984 file a motion in a pending action to enforce a lien, for an
 985 order to require additional security, reduction of security,
 986 change or substitution of sureties, payment of discharge
 987 thereof, or any other matter affecting said security. If the
 988 court finds that the amount of the deposit or bond in excess of
 989 the amount claimed in the claim of lien is insufficient to pay
 990 the lienor's attorney ~~attorney's~~ fees and court costs incurred
 991 in the action to enforce the lien, the court must increase the
 992 amount of the cash deposit or lien transfer bond. ~~Nothing in~~
 993 This section may not ~~shall~~ be construed to vest exclusive
 994 jurisdiction in the circuit courts over transfer bond claims for
 995 nonpayment of an amount within the monetary jurisdiction of the
 996 county courts.

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

998 Section 15. Section 713.29, Florida Statutes, is amended
 999 to read:

1000 713.29 Attorney ~~Attorney's~~ fees.—In any action brought to

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1001 enforce a lien, including a lien that has been transferred to
1002 security, or to enforce a claim against a bond under this part,
1003 the prevailing party is entitled to recover a reasonable fee for
1004 the services of her or his attorney for trial and appeal or for
1005 arbitration, in an amount to be determined by the court, which
1006 fee must be taxed as part of the prevailing party's costs, as
1007 allowed in equitable actions.

1008 Section 16. This act shall take effect October 1, 2023.