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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2023	.	
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The Committee on Rules (Grall) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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



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

16

17 NOTICE OF CONTEST OF CLAIM

18 AGAINST PAYMENT BOND

19

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

21

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

27

28 DATED on,

29

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

31

32 The claim of a claimant upon whom such notice is served and who
33 fails to institute a suit to enforce his or her claim against
34 the payment bond within 60 days after service of such notice is
35 extinguished automatically. The contractor or the contractor's
36 attorney shall serve a copy of the notice of contest on ~~to~~ the
37 claimant at the address shown in the notice of nonpayment or
38 most recent amendment thereto and shall certify to such service
39 on the face of the notice and record the notice. After the clerk
40 records the notice with the certificate of service, the clerk



41 shall serve, in accordance with s. 713.18, a copy of such
42 recorded notice on the claimant and the contractor or the
43 contractor's attorney. The clerk of the court shall charge fees
44 for such services as provided by law.

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



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



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99 However, a minor mistake or error in a notice of nonpayment, or
100 a good faith dispute as to the amount unpaid, does not
101 constitute a willful exaggeration that operates to defeat an
102 otherwise valid claim against the bond. The service of a
103 fraudulent notice of nonpayment is a complete defense to the
104 claimant's claim against the bond. The notice of nonpayment
105 under this subparagraph must include the following information,
106 current as of the date of the notice, and must be in
107 substantially the following form:

108
109 NOTICE OF NONPAYMENT

110
111 To: ...(name of contractor and address)...

112
113 ...(name of surety and address)...

114
115 The undersigned claimant notifies you that:

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

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

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



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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)...

STATE OF FLORIDA

COUNTY OF

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

...(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.....

(7) In lieu of the bond required by this section, a contractor may file with the state, county, city, or other political authority an alternative form of security in the form of cash;; a money order;; a certified check;; a cashier's check;; ~~an irrevocable letter of credit,~~ or a domestic corporate



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157 bond, note, or debenture as authorized in s. 625.317 ~~security of~~
158 ~~a type listed in part II of chapter 625.~~ Any such alternative
159 form of security is ~~shall be~~ for the same purpose and ~~be~~ subject
160 to the same conditions as those applicable to the bond required
161 by this section. ~~The determination of the value of an~~
162 ~~alternative form of security shall be made by the~~ appropriate
163 state, county, city, or other political subdivision shall
164 determine the required value of an alternative form of security.

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

167 Section 2. Paragraph (c) of subsection (1) of section
168 337.18, Florida Statutes, is amended, and subsection (6) is
169 added to that section, to read:

170 337.18 Surety bonds for construction or maintenance
171 contracts; requirement with respect to contract award; bond
172 requirements; defaults; damage assessments.-

173 (1)

174 (c) A claimant, except a laborer, who is not in privity
175 with the contractor shall, before commencing or not later than
176 90 days after commencing to furnish labor, materials, or
177 supplies for the prosecution of the work, furnish the contractor
178 with a notice that he or she intends to look to the bond for
179 protection. A claimant who is not in privity with the contractor
180 and who has not received payment for his or her labor,
181 materials, or supplies shall deliver to the contractor and to
182 the surety written notice of the performance of the labor or
183 delivery of the materials or supplies and of the nonpayment. The
184 notice of nonpayment may be served at any time during the
185 progress of the work or thereafter but not before 45 days after



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186 the first furnishing of labor, services, or materials, and not
187 later than 90 days after the final furnishing of the labor,
188 services, or materials by the claimant or, with respect to
189 rental equipment, not later than 90 days after the date that the
190 rental equipment was last on the ~~job~~ site of the improvement and
191 available for use. An action by a claimant, except a laborer,
192 who is not in privity with the contractor for the labor,
193 materials, or supplies may not be instituted against the
194 contractor or the surety unless both notices have been given.
195 Written notices required or permitted under this section must
196 ~~may~~ be served in accordance with ~~any manner provided in~~ s.
197 713.18.

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

200 Section 3. Present subsections (13) through (29) of section
201 713.01, Florida Statutes, are redesignated as subsections (14)
202 through (30), respectively, a new subsection (13) is added to
203 that section, and subsections (4), (8), and (12) of that section
204 are amended, to read:

205 713.01 Definitions.—As used in this part, the term:

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

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



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215 engineer who improves real property pursuant to a design-build
216 contract authorized by s. 489.103(16). The term also includes a
217 licensed general contractor or building contractor, as those
218 terms are defined in s. 489.105(3)(a) and (b), respectively, who
219 provides construction management services, which include
220 scheduling and coordinating preconstruction and construction
221 phases for the construction project, or who provides program
222 management services, which include schedule control, cost
223 control, and coordinating the provision or procurement of
224 planning, design, and construction for the construction project.

225 (12) "Final furnishing" means the last date that the lienor
226 furnishes labor, services, or materials. Such date may not be
227 measured by other standards, such as the issuance of a
228 certificate of occupancy or the issuance of a certificate of
229 final completion, and does not include the correction of
230 deficiencies in the lienor's previously performed work or
231 materials supplied. With respect to rental equipment, the term
232 means the date that the rental equipment was last on the ~~job~~
233 site of the improvement and available for use.

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

238 Section 4. Section 713.011, Florida Statutes, is created to
239 read:

240 713.011 Computation of time.—

241 (1) In computing any time period under this part, if the
242 last day of the time period is a Saturday, Sunday, or holiday
243 specified in s. 110.117(1), or any day observed as a holiday by



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244 the clerk's office or designated as a holiday by the chief judge
245 of the circuit, the time period is extended to the end of the
246 next business day.

247 (2) If the clerk's office is closed in response to an
248 emergency for 1 or more days so that a person may not present a
249 document for recording or an action for filing in person to the
250 clerk's staff, the time period for recording a document or
251 filing an action with the clerk's office under this part is
252 tolled. When the clerk's office reopens, the time period is
253 extended by the number of days the clerk's office was closed.

254 Section 5. Paragraph (b) of subsection (2) of section
255 713.10, Florida Statutes, is amended, and subsection (4) is
256 added to that section, to read:

257 713.10 Extent of liens.—

258 (2)

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

261 1. The lease, or a short form or a memorandum of the lease
262 that contains the specific language in the lease prohibiting
263 such liability, is recorded in the official records of the
264 county where the premises are located before the recording of a
265 notice of commencement for improvements to the premises and the
266 terms of the lease expressly prohibit such liability; or

267 2. The terms of the lease expressly prohibit such
268 liability, and a notice advising that leases for the rental of
269 premises on a parcel of land prohibit such liability has been
270 recorded in the official records of the county in which the
271 parcel of land is located before the recording of a notice of
272 commencement for improvements to the premises, and the notice



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273 includes the following:

274 a. The name of the lessor.

275 b. The legal description of the parcel of land to which the
276 notice applies.

277 c. The specific language contained in the various leases
278 prohibiting such liability.

279 d. A statement that all or a majority of the leases entered
280 into for premises on the parcel of land expressly prohibit such
281 liability.

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

284

285 A notice that is consistent with subparagraph 2. effectively
286 prohibits liens for improvements made by a lessee even if other
287 leases for premises on the parcel do not expressly prohibit
288 liens or if provisions of each lease restricting the application
289 of liens are not identical.

290 (4) The interest of the lessor is not subject to liens for
291 improvements made by the lessee when the lessee is a mobile home
292 owner who is leasing a mobile home lot in a mobile home park
293 from the lessor.

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

296 713.13 Notice of commencement.—

297 (1) (a) Except for an improvement that is exempt under
298 ~~pursuant to~~ s. 713.02(5), an owner or the owner's authorized
299 agent before actually commencing to improve any real property,
300 or recommencing completion of any improvement after default or
301 abandonment, whether or not a project has a payment bond



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302 complying with s. 713.23, shall record a notice of commencement
303 in the clerk's office and ~~forthwith~~ post either a certified copy
304 thereof or a notarized statement that the notice of commencement
305 has been filed for recording along with a copy thereof. The
306 notice of commencement must ~~shall~~ contain all of the following
307 information:

308 1. A description sufficient for identification of the real
309 property to be improved. The description must ~~should~~ include the
310 legal description of the property and ~~also should include~~ the
311 street address and tax folio number of the property if available
312 or, if the ~~there is no~~ street address is not available, such
313 additional information as will describe the physical location of
314 the real property to be improved.

315 2. A general description of the improvement.

316 3. The name and address of the owner, the owner's interest
317 in the site of the improvement, and the name and address of the
318 fee simple titleholder, if other than such owner. A lessee who
319 contracts for the improvements is an owner as defined in s.
320 713.01 ~~under s. 713.01(23)~~ and must be listed as the owner
321 together with a statement that the ownership interest is a
322 leasehold interest.

323 4. The name and address of the contractor.

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

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

328 7. The name and address within the state of a person other
329 than himself or herself who may be designated by the owner as
330 the person upon whom notices or other documents may be served



331 under this part; and service upon the person so designated
332 constitutes service upon the owner.

333 (d) A notice of commencement must be in substantially the
334 following form:

335
336 Permit No..... Tax Folio No.....

337 NOTICE OF COMMENCEMENT

338 State of....

339 County of....

340

341 The undersigned hereby gives notice that improvement will be
342 made to certain real property, and in accordance with Chapter
343 713, Florida Statutes, the following information is provided in
344 this Notice of Commencement.

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

347 2. General description of improvement:.....

348 3. Owner information or Lessee information if the Lessee
349 contracted for the improvement:

350 a. Name and address:.....

351 b. Interest in property:.....

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

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

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

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

358 a. Name and address:.....

359 b. Phone number:.....



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360 c. Amount of bond: \$.....
361 6.a. Lender: ...(name and address)....
362 b. Lender's phone number:.....
363 7. Persons within the State of Florida designated by Owner
364 upon whom notices or other documents may be served as provided
365 by Section 713.13(1)(a)7., Florida Statutes:
366 a. Name and address:.....
367 b. Phone numbers of designated persons:.....
368 8.a. In addition to himself or herself, Owner designates
369 of to receive a copy of the Lienor's
370 Notice as provided in Section 713.13(1)(b), Florida Statutes.
371 b. Phone number of person or entity designated by
372 owner:.....
373 9. Expiration date of notice of commencement (the
374 expiration date will be 1 year after ~~from~~ the date of recording
375 unless a different date is specified).....
376
377 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE
378 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER
379 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA
380 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS
381 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND
382 POSTED ON THE ~~JOB~~ SITE OF THE IMPROVEMENT BEFORE THE FIRST
383 INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR
384 LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR
385 NOTICE OF COMMENCEMENT.
386
387 ...(Signature of Owner or Lessee, or Owner's or Lessee's
388 Authorized Officer/Director/Partner/Manager)...



389
390 ... (Signatory's Title/Office) ...

391
392 The foregoing instrument was acknowledged before me by means of
393 physical presence or sworn to (or affirmed) by online
394 notarization this day of, ... (year) ..., by ... (name of
395 person) ... as ... (type of authority, . . . e.g. officer,
396 trustee, attorney in fact) ... for ... (name of party on behalf of
397 whom instrument was executed)

398
399 ... (Signature of Notary Public - State of Florida) ...

400
401 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

402
403 Personally Known OR Produced Identification

404
405 Type of Identification Produced

406 Section 7. Subsections (1), (3), and (4) of section
407 713.132, Florida Statutes, are amended, and subsection (5) is
408 added to that section, to read:

409 713.132 Notice of termination.—

410 (1) An owner may terminate the period of effectiveness of a
411 notice of commencement by executing, swearing to, and recording
412 a notice of termination that contains all of the following:

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

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



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418 (c) A statement of the date as of which the notice of
419 commencement is terminated, which date may not be earlier than
420 30 days after the notice of termination is recorded.~~†~~

421 (d) A statement specifying that the notice applies to all
422 the real property subject to the notice of commencement or
423 specifying the portion of such real property to which it
424 applies.~~†~~

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

427 (f) A statement that the owner has, before recording the
428 notice of termination, served a copy of the notice of
429 termination ~~on the contractor and~~ on each lienor who has a
430 direct contract with the owner or who has timely served a notice
431 to owner, and a statement that the owner will serve a copy of
432 the notice of termination on each lienor who timely serves a
433 notice to owner after the notice of termination has been
434 recorded. The owner is not required to serve a copy of the
435 notice of termination on any lienor who has executed a waiver
436 and release of lien upon final payment in accordance with s.
437 713.20.

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

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



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447 filing of the fraudulent notice of termination,⁷ and any such
448 lienor has a right of action for damages ~~occasioned thereby.~~

449 (5) (4) A notice of termination must be served before
450 recording on each lienor who has a direct contract with the
451 owner and on each lienor who has timely and properly served a
452 notice to owner in accordance with this part before the
453 recording of the notice of termination. A notice of termination
454 must be recorded in the official records of the county in which
455 the improvement is located. If properly served before recording
456 in accordance with this subsection, the notice of termination
457 terminates the period of effectiveness of the notice of
458 commencement 30 days after the notice of termination is recorded
459 in the official records is effective to terminate the notice of
460 commencement at the later of 30 days after recording of the
461 notice of termination or a later the date stated in the notice
462 of termination as the date on which the notice of commencement
463 is terminated. However, if a lienor who began work under the
464 notice of commencement before its termination lacks a direct
465 contract with the owner and timely serves his or her notice to
466 owner after the notice of termination has been recorded, the
467 owner must serve a copy of the notice of termination upon such
468 lienor, and the termination of the notice of commencement as to
469 that lienor is effective 30 days after service of the notice of
470 termination, if the notice of termination has been served
471 pursuant to paragraph (1) (f) on the contractor and on each
472 lienor who has a direct contract with the owner or who has
473 served a notice to owner.

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



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476 713.135 Notice of commencement and applicability of lien.-

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

479 (a) Print on the face of each permit card in no less than
480 14-point, capitalized, boldfaced type: "WARNING TO OWNER: YOUR
481 FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR
482 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF
483 COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE OF THE
484 IMPROVEMENT BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN
485 FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE
486 RECORDING YOUR NOTICE OF COMMENCEMENT."

487 (b) Provide the applicant and the owner of the real
488 property upon which improvements are to be constructed with a
489 printed statement stating that the right, title, and interest of
490 the person who has contracted for the improvement may be subject
491 to attachment under the Construction Lien Law. The Department of
492 Business and Professional Regulation shall furnish, for
493 distribution, the statement described in this paragraph, and the
494 statement must be a summary of the Construction Lien Law and
495 must include an explanation of the provisions of the
496 Construction Lien Law relating to the recording, and the posting
497 of copies, of notices of commencement and a statement
498 encouraging the owner to record a notice of commencement and
499 post a copy of the notice of commencement in accordance with s.
500 713.13. The statement must also contain an explanation of the
501 owner's rights if a lienor fails to furnish the owner with a
502 notice as provided in s. 713.06(2) and an explanation of the
503 owner's rights as provided in s. 713.22. The authority that
504 issues the building permit must obtain from the Department of



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505 Business and Professional Regulation the statement required by
506 this paragraph and must mail, deliver by electronic mail or
507 other electronic format or facsimile, or personally deliver that
508 statement to the owner or, in a case in which the owner is
509 required to personally appear to obtain the permit, provide that
510 statement to any owner making improvements to real property
511 consisting of a single or multiple family dwelling up to and
512 including four units. However, the failure by the authorities to
513 provide the summary does not subject the issuing authority to
514 liability.

515 (c) In addition to providing the owner with the statement
516 as required by paragraph (b), inform each applicant who is not
517 the person whose right, title, and interest is subject to
518 attachment that, as a condition to the issuance of a building
519 permit, the applicant must promise in good faith that the
520 statement will be delivered to the person whose property is
521 subject to attachment.

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

524 (e) Require ~~If the direct contract is greater than \$2,500,~~
525 the applicant to shall file with the issuing authority before
526 ~~prior to~~ the first inspection ~~either a certified~~ copy of the
527 ~~recorded~~ notice of commencement if the direct contract is
528 greater than \$7,500. For purposes of this paragraph, the term
529 "copy of the notice of commencement" means a certified copy of
530 the recorded notice of commencement, or a notarized statement
531 that the notice of commencement has been filed for recording,
532 along with a copy thereof, or the clerk's office's official
533 records identifying information that includes the instrument



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534 number for the notice of commencement or the number and page of
535 book where the notice of commencement is recorded, as identified
536 by the clerk.

537 1. In the absence of the filing of a ~~certified~~ copy of the
538 ~~recorded~~ notice of commencement, the issuing authority or a
539 private provider performing inspection services may not perform
540 or approve subsequent inspections until the applicant files by
541 mail, facsimile, hand delivery, or any other means such
542 ~~certified~~ copy with the issuing authority.

543 2. The ~~certified~~ copy of the notice of commencement must
544 contain the name and address of the owner, the name and address
545 of the contractor, and the location or address of the property
546 being improved. The issuing authority shall verify that the name
547 and address of the owner, the name of the contractor, and the
548 location or address of the property being improved which is
549 contained in the ~~certified~~ copy of the notice of commencement is
550 consistent with the information in the building permit
551 application.

552 3. The issuing authority shall provide the recording
553 information on the ~~certified~~ copy of the ~~recorded~~ notice of
554 commencement to any person upon request.

555 4. This paragraph ~~subsection~~ does not require the recording
556 of a notice of commencement before ~~prior to~~ the issuance of a
557 building permit. If a local government requires a separate
558 permit or inspection for installation of temporary electrical
559 service or other temporary utility service, land clearing, or
560 other preliminary site work, such permits may be issued and such
561 inspections may be conducted without providing the issuing
562 authority with a ~~certified~~ copy of the ~~a-recorded~~ notice of



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563 ~~commencement or a notarized statement regarding a recorded~~
564 ~~notice of commencement. This subsection does not apply to a~~
565 ~~direct contract to repair or replace an existing heating or air-~~
566 ~~conditioning system in an amount less than \$15,000.~~

567 (f) ~~(e)~~ Not require that a notice of commencement be
568 recorded as a condition of the application for, or processing or
569 issuance of, a building permit. However, this paragraph does not
570 modify or waive the inspection requirements set forth in this
571 subsection.

572
573 This subsection does not apply to a direct contract to repair or
574 replace an existing heating or air-conditioning system in an
575 amount less than \$15,000.

576 (3) An issuing authority under subsection (1) is not liable
577 in any civil action for the failure to verify that a certified
578 copy of the recorded notice of commencement, a notarized
579 statement that the notice of commencement has been filed for
580 recording along with a copy thereof, or the clerk's office's
581 official records identifying information that includes the
582 instrument number for the notice of commencement or the number
583 and page of book where the notice of commencement is recorded,
584 as identified by the clerk, has been filed in accordance with
585 this section.

586 Section 9. Section 713.18, Florida Statutes, is amended to
587 read:

588 713.18 Manner of serving documents ~~notices and other~~
589 ~~instruments.~~

590 (1) Unless otherwise specifically provided by law, service
591 of any document ~~notices, claims of lien, affidavits,~~



592 ~~assignments, and other instruments~~ permitted or required under
593 this part, s. 255.05, or s. 337.18, or copies thereof when so
594 permitted or required, ~~unless otherwise specifically provided in~~
595 ~~this part,~~ must be made by one of the following methods:

596 (a) By hand ~~actual~~ delivery to the person to be served; if
597 a partnership, to one of the partners; if a corporation, to an
598 officer or, director, ~~managing agent, or business agent;~~ or, if
599 a limited liability company, to a member or manager; or to an
600 employee or agent authorized by the partnership, corporation, or
601 limited liability company to receive service of such document.

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

606 (c) By posting on the site of the improvement if service as
607 provided by paragraph (a) or paragraph (b) cannot be
608 accomplished.

609 (2) Notwithstanding subsection (1), service of a notice to
610 owner or a preliminary notice to contractor under this part, s.
611 255.05, or s. 337.18, ~~or s. 713.23~~ is effective as of the date
612 of mailing, and the requirements for service under this section
613 have been satisfied, if all of the following requirements have
614 been met:

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

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



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621 (c)1. The person who served the notice maintains a
622 ~~registered or certified~~ mail log that shows the registered or
623 certified mail number issued by the United States Postal
624 Service, the name and address of the person served, and the date
625 stamp of the United States Postal Service confirming the date of
626 mailing; or

627 2. The person who served the notice maintains ~~electronic~~
628 tracking records approved or generated by the United States
629 Postal Service containing the postal tracking number, ~~the name~~
630 ~~and address of the person served,~~ and verification of the date
631 of receipt by the United States Postal Service.

632 (3) (a) Notwithstanding subsection (1), service of a
633 document under an instrument pursuant to this section is
634 effective on the date of mailing or shipping, and the
635 requirements for service under this section have been satisfied,
636 ~~the instrument~~ if the document meets both of the following
637 requirements ~~it:~~

638 1. It is sent to the last address shown in the notice of
639 commencement or any amendment thereto or, in the absence of a
640 notice of commencement, to the last address shown in the
641 building permit application, or to the last known address of the
642 person to be served. ~~;~~ and

643 2. It is returned as being "refused," "moved, not
644 forwardable," or "unclaimed," or is otherwise not delivered or
645 deliverable through no fault of the person serving the document
646 ~~item.~~

647 (b) If the address shown in the notice of commencement or
648 any amendment thereto ~~to the notice of commencement,~~ or, in the
649 absence of a notice of commencement, in the building permit



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650 application, is incomplete for purposes of mailing or delivery,
651 the person serving the document ~~item~~ may complete the address
652 and properly format it according to United States Postal Service
653 addressing standards using information obtained from the
654 property appraiser or another public record without affecting
655 the validity of service under this section.

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

659 Section 10. Section 713.21, Florida Statutes, is amended to
660 read:

661 713.21 Discharge of lien.—A lien properly perfected under
662 this chapter may be discharged, or released in whole or in part,
663 by any of the following methods:

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

671 (2) By the satisfaction or release of the lienor, duly
672 acknowledged and recorded in the clerk's office. The
673 satisfaction or release must include the lienor's notarized
674 signature and set forth the official records' reference number
675 and recording date affixed by the recording office on the
676 subject lien. Any person who executes a claim of lien has ~~shall~~
677 ~~have~~ authority to execute a satisfaction or release in the
678 absence of actual notice of lack of authority to any person



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679 relying on the same.

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

682 (4) By an order of the circuit court of the county where
683 the property is located, as provided in this subsection. Upon
684 filing a complaint ~~therefor~~ by any interested party the clerk
685 shall issue a summons to the lienor to show cause within 20 days
686 after service of the summons why his or her lien should not be
687 enforced by action or vacated and canceled of record. Upon
688 failure of the lienor to show cause why his or her lien should
689 not be enforced or the lienor's failure to commence such action
690 before the return date of the summons the court shall ~~forthwith~~
691 order cancellation of the lien.

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

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

697 713.22 Duration of lien.—

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

703

704 NOTICE OF CONTEST OF LIEN

705

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

707



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

714
715 Signed: ...(Owner or Attorney)...
716

717 The lien of any lienor upon whom such notice is served and who
718 fails to institute a suit to enforce his or her lien within 60
719 days after service of such notice is shall be extinguished
720 automatically. The clerk shall serve, in accordance with s.
721 713.18, a copy of the notice of contest on to the lienor lien
722 claimant at the address shown in the claim of lien or most
723 recent amendment thereto and shall certify to such service and
724 the date of service on the face of the notice and record the
725 notice. After the clerk records the notice with the certificate
726 of service, the clerk shall serve, in accordance with s. 713.18,
727 a copy of such recorded notice on the lienor and the owner or
728 the owner's attorney. The clerk of the court shall charge fees
729 for such services as provided by law.

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

732 713.23 Payment bond.—

733 (1)

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



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737 notice of nonpayment ~~on to~~ the contractor and a copy of the
738 notice of nonpayment on the surety. The notice of nonpayment
739 must be under oath and served during the progress of the work or
740 thereafter, but may not be served later than 90 days after the
741 final furnishing of labor, services, or materials by the lienor,
742 or, with respect to rental equipment, later than 90 days after
743 the date the rental equipment was on the ~~job~~ site of the
744 improvement and available for use. A notice of nonpayment that
745 includes sums for retainage must specify the portion of the
746 amount claimed for retainage. The required notice satisfies this
747 condition precedent with respect to the payment described in the
748 notice of nonpayment, including unpaid finance charges due under
749 the lienor's contract, and with respect to any other payments
750 which become due to the lienor after the date of the notice of
751 nonpayment. The time period for serving a notice of nonpayment
752 is shall be measured from the last day of furnishing labor,
753 services, or materials by the lienor and may not be measured by
754 other standards, such as the issuance of a certificate of
755 occupancy or the issuance of a certificate of substantial
756 completion. The failure of a lienor to receive retainage sums
757 not in excess of 10 percent of the value of labor, services, or
758 materials furnished by the lienor is not considered a nonpayment
759 requiring the service of the notice provided under this
760 paragraph. If the payment bond is not recorded before
761 commencement of construction, the time period for the lienor to
762 serve a notice of nonpayment may, at the option of the lienor,
763 be calculated from the date specified in this section or the
764 date the lienor is served a copy of the bond. However, the
765 limitation period for commencement of an action on the payment



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766 bond as established in paragraph (e) may not be expanded. The
767 negligent inclusion or omission of any information in the notice
768 of nonpayment that has not prejudiced the contractor or surety
769 does not constitute a default that operates to defeat an
770 otherwise valid bond claim. A lienor who serves a fraudulent
771 notice of nonpayment forfeits his or her rights under the bond.
772 A notice of nonpayment is fraudulent if the lienor has willfully
773 exaggerated the amount unpaid, willfully included a claim for
774 work not performed or materials not furnished for the subject
775 improvement, or prepared the notice with such willful and gross
776 negligence as to amount to a willful exaggeration. However, a
777 minor mistake or error in a notice of nonpayment, or a good
778 faith dispute as to the amount unpaid, does not constitute a
779 willful exaggeration that operates to defeat an otherwise valid
780 claim against the bond. The service of a fraudulent notice of
781 nonpayment is a complete defense to the lienor's claim against
782 the bond. The notice under this paragraph must include the
783 following information, current as of the date of the notice, and
784 must be in substantially the following form:

785
786 NOTICE OF NONPAYMENT

787
788 To ...(name of contractor and address)...

789
790 ...(name of surety and address)...

791
792 The undersigned lienor notifies you that:

793 1. The lienor has furnished ...(describe labor, services,
794 or materials)... for the improvement of the real property



795 identified as ...(property description).... The corresponding
796 amount unpaid to date is \$...., of which \$.... is unpaid
797 retainage.

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

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

805
806 I declare that I have read the foregoing Notice of Nonpayment
807 and that the facts stated in it are true to the best of my
808 knowledge and belief.

809
810 DATED on,

811
812 ...(signature and address of lienor)...

813
814 STATE OF FLORIDA
815 COUNTY OF.....

816
817 The foregoing instrument was sworn to (or affirmed) and
818 subscribed before me by means of physical presence or sworn to
819 (or affirmed) by online notarization this day of,
820 ...(year)...., by ...(name of signatory)....

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

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



824
825 Personally Known OR Produced Identification

826
827 Type of Identification Produced.....

828 (e) An action for the labor, ~~or~~ materials, or supplies may
829 not be instituted or prosecuted against the contractor or surety
830 unless both notices have been given, if required by this
831 section. An action must ~~may not~~ be instituted or prosecuted
832 against the contractor or against the surety on the bond under
833 this section within ~~after~~ 1 year after ~~from~~ the performance of
834 the labor or completion of delivery of the materials and
835 supplies. The time period for bringing an action against the
836 contractor or surety on the bond is ~~shall be~~ measured from the
837 last day of furnishing labor, services, or materials by the
838 lienor. The time period may not be measured by other standards,
839 such as the issuance of a certificate of occupancy or the
840 issuance of a certificate of substantial completion. A
841 contractor or the contractor's attorney may elect to shorten the
842 time within which an action to enforce any claim against a
843 payment bond provided under this section or s. 713.245 must be
844 commenced at any time after a notice of nonpayment, if required,
845 has been served for the claim by recording in the clerk's office
846 a notice in substantially the following form:

847 NOTICE OF CONTEST OF CLAIM
848 AGAINST PAYMENT BOND

849 To: ... (Name and address of lienor) ...
850 You are notified that the undersigned contests your notice
851 of nonpayment, dated,, and served on the undersigned
852 on,, and that the time within which you may file suit



853 to enforce your claim is limited to 60 days after ~~from~~ the date
854 of service of this notice.

855 DATED on,

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

857

858 The claim of any lienor upon whom the notice is served and who
859 fails to institute a suit to enforce his or her claim against
860 the payment bond within 60 days after service of the notice is
861 ~~shall be~~ extinguished automatically. The contractor or the
862 contractor's attorney shall serve, in accordance with s. 713.18,
863 a copy of the notice of contest to the lienor at the address
864 shown in the notice of nonpayment or most recent amendment
865 thereto and shall certify to such service on the face of the
866 notice and record the notice. After the clerk records the notice
867 with the certificate of service, the clerk shall serve, in
868 accordance with s. 713.18, a copy of such recorded notice on the
869 lienor and the contractor or the contractor's attorney. The
870 clerk of the court shall charge fees for such services as
871 provided by law.

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

874 713.24 Transfer of liens to security.-

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

879 (a) Depositing in the clerk's office a sum of money;7 or

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



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882
883 ~~either to be~~ in an amount equal to the amount demanded in such
884 claim of lien, plus interest thereon at the legal rate for 3
885 years, plus \$5,000 ~~\$1,000~~ or 25 percent of the amount demanded
886 in the claim of lien, whichever is greater, to apply on any
887 attorney ~~attorney's~~ fees and court costs that may be taxed in
888 any proceeding to enforce said lien. Such deposit or bond must
889 ~~shall~~ be conditioned to pay any judgment or decree which may be
890 rendered for the satisfaction of the lien for which such claim
891 of lien was recorded. Upon making such deposit or filing such
892 bond, the clerk shall make and record a certificate, which must
893 include a copy of the deposit or bond used to transfer, showing
894 the transfer of the lien from the real property to the security
895 and shall mail a copy thereof together with a copy of the
896 deposit or bond used to transfer by registered or certified mail
897 to the lienor named in the claim of lien so transferred, at the
898 address stated therein. Upon filing the certificate of transfer,
899 the real property is ~~shall thereupon be~~ released from the lien
900 claimed, and such lien is ~~shall be~~ transferred to said security.
901 In the absence of allegations of privity between the lienor and
902 the owner, and subject to any order of the court increasing the
903 amount required for the lien transfer deposit or bond, no other
904 judgment or decree to pay money may be entered by the court
905 against the owner. The clerk is ~~shall be~~ entitled to a service
906 charge for making and serving the certificate, in the amount of
907 up to \$20, from which the clerk shall remit \$5 to the Department
908 of Revenue for deposit into the General Revenue Fund. If the
909 transaction involves the transfer of multiple liens, the clerk
910 shall charge an additional service charge of up to \$10 for each



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911 additional lien ~~shall be charged~~, from which the clerk shall
912 remit \$2.50 to the Department of Revenue for deposit into the
913 General Revenue Fund. For recording the certificate and
914 approving the bond, the clerk shall receive her or his usual
915 statutory service charges as prescribed in s. 28.24. Any number
916 of liens may be transferred to one such security.

917 (3) Any party having an interest in such security or the
918 property from which the lien was transferred may at any time,
919 and any number of times, file a complaint in chancery in the
920 circuit court of the county where such security is deposited, or
921 file a motion in a pending action to enforce a lien, for an
922 order to require additional security, reduction of security,
923 change or substitution of sureties, payment of discharge
924 thereof, or any other matter affecting said security. If the
925 court finds that the amount of the deposit or bond in excess of
926 the amount claimed in the claim of lien is insufficient to pay
927 the lienor's attorney ~~attorney's~~ fees and court costs incurred
928 in the action to enforce the lien, the court must increase the
929 amount of the cash deposit or lien transfer bond. ~~Nothing in~~
930 This section may not ~~shall~~ be construed to vest exclusive
931 jurisdiction in the circuit courts over transfer bond claims for
932 nonpayment of an amount within the monetary jurisdiction of the
933 county courts.

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

935 Section 15. Section 713.29, Florida Statutes, is amended to
936 read:

937 713.29 Attorney ~~Attorney's~~ fees.—In any action brought to
938 enforce a lien, including a lien that has been transferred to
939 security, or to enforce a claim against a bond under this part,



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940 the prevailing party is entitled to recover a reasonable fee for
941 the services of her or his attorney for trial and appeal or for
942 arbitration, in an amount to be determined by the court, which
943 fee must be taxed as part of the prevailing party's costs, as
944 allowed in equitable actions.

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

946
947 ===== T I T L E A M E N D M E N T =====

948 And the title is amended as follows:

949 Delete everything before the enacting clause
950 and insert:

951 A bill to be entitled
952 An act relating to liens and bonds; amending s.
953 255.05, F.S.; requiring the clerk of the court to
954 serve a copy of a notice of contest of claim on
955 certain persons after it has been recorded; requiring
956 the clerk of the court to charge fees for such
957 services as provided by law; revising when a notice of
958 contest of claim against a payment bond must be
959 served; requiring that a copy of a notice of
960 nonpayment be served on the surety; revising the
961 process for notarizing a notice of nonpayment;
962 revising authorized alternative forms of security;
963 requiring service of documents to be made in a
964 specified manner; conforming provisions to changes
965 made by the act; making technical changes; amending s.
966 337.18, F.S.; requiring service of documents to be
967 made in a specified manner; conforming provisions to
968 changes made by the act; amending s. 713.01, F.S.;



969 revising and providing definitions; creating s.
970 713.011, F.S.; providing for the computation of time
971 when certain time periods fall on specified days or
972 during an emergency; amending s. 713.10, F.S.;
973 revising the extent of certain liens; amending s.
974 713.13, F.S.; conforming a cross-reference; revising
975 the process for notarizing a notice of commencement;
976 making technical changes; amending s. 713.132, F.S.;
977 revising requirements for a notice of termination;
978 revising when an owner may record a notice of
979 termination; specifying when a notice of termination
980 terminates a notice of commencement; amending s.
981 713.135, F.S.; providing a definition; providing
982 applicability; revising the dollar threshold of an
983 exception; providing immunity; making technical
984 changes; amending s. 713.18, F.S.; requiring service
985 of documents relating to construction bonds to be made
986 in a specified manner; authorizing employees or agents
987 of specified entities to receive service of certain
988 documents; making technical changes; amending s.
989 713.21, F.S.; authorizing the full or partial release
990 of a lien under specified conditions; making technical
991 changes; amending s. 713.22, F.S.; requiring the clerk
992 to serve a copy of a notice of contest of lien on
993 certain persons after it has been recorded; requiring
994 the clerk of the court to charge fees for such
995 services as provided by law; making technical changes;
996 amending s. 713.23, F.S.; requiring that a copy of a
997 notice of nonpayment be served on the surety; revising



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998 the process for notarizing a notice of nonpayment
999 under a payment bond; requiring the clerk to serve a
1000 copy of a notice of contest of lien on certain persons
1001 after it has been recorded; requiring the clerk of the
1002 court to charge fees for such services as provided by
1003 law; amending s. 713.24, F.S.; revising the amount
1004 required in addition to the deposit or bond which
1005 applies toward attorney fees and court costs;
1006 requiring the clerk to make a copy of the deposit or
1007 bond used to transfer a lien to other security and
1008 mail it to the lienor; making technical changes;
1009 repealing s. 713.25, F.S., relating to applicability
1010 of ch. 65-456, Laws of Florida; amending s. 713.29,
1011 F.S.; authorizing attorney fees in actions brought to
1012 enforce a lien that has been transferred to security;
1013 making technical changes; providing an effective date.