

By Senator Grall

29-00360B-23

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1                   A bill to be entitled  
2       An act relating to liens and bonds; amending s.  
3       255.05, F.S.; revising when a notice of contest of  
4       claim against a payment bond must be served; requiring  
5       that a copy of a notice of nonpayment be served on the  
6       surety; revising the process for notarizing a notice  
7       of nonpayment; revising authorized alternative forms  
8       of security; requiring service of documents to be made  
9       in a specified manner; conforming provisions to  
10      changes made by the act; making technical changes;  
11      amending s. 337.18, F.S.; requiring service of  
12      documents to be made in a specified manner; conforming  
13      provisions to changes made by the act; amending s.  
14      713.01, F.S.; revising and providing definitions;  
15      creating s. 713.011, F.S.; providing for the  
16      computation of time when certain time periods fall on  
17      specified days or during an emergency; amending s.  
18      713.10, F.S.; revising the extent of certain liens;  
19      amending s. 713.13, F.S.; conforming a cross-  
20      reference; revising the process for notarizing a  
21      notice of commencement; making technical changes;  
22      amending s. 713.132, F.S.; revising requirements for a  
23      notice of termination; revising when an owner may  
24      record a notice of termination; specifying when a  
25      notice of termination terminates a notice of  
26      commencement; amending s. 713.135, F.S.; defining the  
27      term "copy of the notice of commencement"; providing  
28      applicability; revising the dollar threshold of an  
29      exception; providing immunity; amending s. 713.18,

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30 F.S.; requiring service of documents relating to  
31 construction bonds to be made in a specified manner;  
32 authorizing employees or agents of specified entities  
33 to receive service of certain documents; making  
34 technical changes; amending s. 713.21, F.S.;  
35 authorizing the full or partial release of a lien  
36 under specified conditions; making technical changes;  
37 amending s. 713.22, F.S.; requiring the clerk to serve  
38 a copy of a notice of contest of lien on certain  
39 persons after it has been recorded; making technical  
40 changes; amending s. 713.23, F.S.; requiring that a  
41 copy of a notice of nonpayment be served on the  
42 surety; revising the process for notarizing a notice  
43 of nonpayment under a payment bond; requiring the  
44 clerk to serve a copy of a notice of contest of lien  
45 on certain persons after it has been recorded;  
46 amending s. 713.24, F.S.; revising the amount required  
47 in addition to the deposit or bond that applies toward  
48 attorney fees and court costs; requiring the clerk to  
49 make a copy of the deposit or bond used to transfer a  
50 lien to other security and mail it to the lienor;  
51 making technical changes; repealing s. 713.25, F.S.,  
52 relating to applicability of chapter 65-456, Laws of  
53 Florida; amending s. 713.29, F.S.; authorizing  
54 attorney fees in actions brought to enforce a lien  
55 that has been transferred to security; making  
56 technical changes; providing an effective date.

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58 Be It Enacted by the Legislature of the State of Florida:

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

NOTICE OF CONTEST OF CLAIM  
AGAINST PAYMENT BOND

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

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

DATED on ....., .....

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

The claim of a claimant upon whom such notice is served and who

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88 fails to institute a suit to enforce his or her claim against  
89 the payment bond within 60 days after service of such notice is  
90 extinguished automatically. The contractor or the contractor's  
91 attorney shall serve a copy of the notice of contest on ~~to~~ the  
92 claimant at the address shown in the notice of nonpayment or  
93 most recent amendment thereto and shall certify to such service  
94 on the face of the notice and record the notice.

95 2. A claimant, except a laborer, who is not in privity with  
96 the contractor shall, before commencing or not later than 45  
97 days after commencing to furnish labor, services, or materials  
98 for the prosecution of the work, serve the contractor with a  
99 written notice that he or she intends to look to the bond for  
100 protection. If the payment bond is not recorded before the  
101 commencement of work or before the recommencement of work after  
102 a default or abandonment as required by subsection (1), the  
103 claimant may serve the contractor with such written notice up to  
104 45 days after the date that the claimant is served with a copy  
105 of the bond. A claimant who is not in privity with the  
106 contractor and who has not received payment for furnishing his  
107 or her labor, services, or materials shall serve a written  
108 notice of nonpayment on the contractor and a copy of the notice  
109 of nonpayment on the surety. The notice of nonpayment must ~~shall~~  
110 be under oath and served during the progress of the work or  
111 thereafter but may not be served earlier than 45 days after the  
112 first furnishing of labor, services, or materials by the  
113 claimant or later than 90 days after the final furnishing of the  
114 labor, services, or materials by the claimant or, with respect  
115 to rental equipment, later than 90 days after the date that the  
116 rental equipment was last on the ~~job~~ site of the improvement and

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117 available for use. Any notice of nonpayment served by a claimant  
118 who is not in privity with the contractor which includes sums  
119 for retainage must specify the portion of the amount claimed for  
120 retainage. An action for the labor, services, or materials may  
121 not be instituted against the contractor or the surety unless  
122 the notice to the contractor and notice of nonpayment have been  
123 served, if required by this section. Notices required or  
124 permitted under this section must be served in accordance with  
125 s. 713.18. A claimant may not waive in advance his or her right  
126 to bring an action under the bond against the surety. In any  
127 action brought to enforce a claim against a payment bond under  
128 this section, the prevailing party is entitled to recover a  
129 reasonable fee for the services of his or her attorney for trial  
130 and appeal or for arbitration, in an amount to be determined by  
131 the court or arbitrator, which fee must be taxed as part of the  
132 prevailing party's costs, as allowed in equitable actions. The  
133 time periods for service of a notice of nonpayment or for  
134 bringing an action against a contractor or a surety are ~~shall be~~  
135 measured from the last day of furnishing labor, services, or  
136 materials by the claimant and may not be measured by other  
137 standards, such as the issuance of a certificate of occupancy or  
138 the issuance of a certificate of substantial completion. The  
139 negligent inclusion or omission of any information in the notice  
140 of nonpayment that has not prejudiced the contractor or surety  
141 does not constitute a default that operates to defeat an  
142 otherwise valid bond claim. A claimant who serves a fraudulent  
143 notice of nonpayment forfeits his or her rights under the bond.  
144 A notice of nonpayment is fraudulent if the claimant has  
145 willfully exaggerated the amount unpaid, willfully included a

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146 claim for work not performed or materials not furnished for the  
147 subject improvement, or prepared the notice with such willful  
148 and gross negligence as to amount to a willful exaggeration.  
149 However, a minor mistake or error in a notice of nonpayment, or  
150 a good faith dispute as to the amount unpaid, does not  
151 constitute a willful exaggeration that operates to defeat an  
152 otherwise valid claim against the bond. The service of a  
153 fraudulent notice of nonpayment is a complete defense to the  
154 claimant's claim against the bond. The notice of nonpayment  
155 under this subparagraph must include the following information,  
156 current as of the date of the notice, and must be in  
157 substantially the following form:

158  
159 NOTICE OF NONPAYMENT

160  
161 To: ...(name of contractor and address)...

162  
163 ...(name of surety and address)...

164  
165 The undersigned claimant notifies you that:

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

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

174 3. Claimant expects to furnish ...(describe labor,

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175 services, or materials)... for this improvement in the future  
176 (if known), and the corresponding amount expected to become due  
177 is \$.... (if known).

178  
179 I declare that I have read the foregoing Notice of Nonpayment  
180 and that the facts stated in it are true to the best of my  
181 knowledge and belief.

182  
183 DATED on ....., .....

184  
185 ... (signature and address of claimant)...

186  
187 STATE OF FLORIDA  
188 COUNTY OF .....

189  
190 The foregoing instrument was sworn to (or affirmed) and  
191 subscribed before me by means of  physical presence or sworn to  
192 (or affirmed) by  online notarization this .... day of .....,  
193 ... (year)...., by ... (name of signatory)....

194 ... (Signature of Notary Public - State of Florida) ...  
195 ... (Print, Type, or Stamp Commissioned Name of Notary  
196 Public) ...

197  
198 Personally Known ..... OR Produced Identification .....

199  
200 Type of Identification Produced.....

201  
202 (7) In lieu of the bond required by this section, a  
203 contractor may file with the state, county, city, or other

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204 political authority an alternative form of security in the form  
205 of cash;~~;~~ a money order;~~;~~ a certified check;~~;~~ a cashier's  
206 check;~~;~~ ~~an irrevocable letter of credit,~~ or a domestic corporate  
207 bond, note, or debenture as authorized in s. 625.317 ~~security of~~  
208 ~~a type listed in part II of chapter 625.~~ Any such alternative  
209 form of security is ~~shall be~~ for the same purpose and ~~be~~ subject  
210 to the same conditions as those applicable to the bond required  
211 by this section. The determination of the value of an  
212 alternative form of security shall be made by the appropriate  
213 state, county, city, or other political subdivision.

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

216 Section 2. Paragraph (c) of subsection (1) of section  
217 337.18, Florida Statutes, is amended, and subsection (6) is  
218 added to that section, to read:

219 337.18 Surety bonds for construction or maintenance  
220 contracts; requirement with respect to contract award; bond  
221 requirements; defaults; damage assessments.—

222 (1)

223 (c) A claimant, except a laborer, who is not in privity  
224 with the contractor shall, before commencing or not later than  
225 90 days after commencing to furnish labor, materials, or  
226 supplies for the prosecution of the work, furnish the contractor  
227 with a notice that he or she intends to look to the bond for  
228 protection. A claimant who is not in privity with the contractor  
229 and who has not received payment for his or her labor,  
230 materials, or supplies shall deliver to the contractor and to  
231 the surety written notice of the performance of the labor or  
232 delivery of the materials or supplies and of the nonpayment. The



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233 notice of nonpayment may be served at any time during the  
234 progress of the work or thereafter but not before 45 days after  
235 the first furnishing of labor, services, or materials, and not  
236 later than 90 days after the final furnishing of the labor,  
237 services, or materials by the claimant or, with respect to  
238 rental equipment, not later than 90 days after the date that the  
239 rental equipment was last on the ~~job~~ site of the improvement and  
240 available for use. An action by a claimant, except a laborer,  
241 who is not in privity with the contractor for the labor,  
242 materials, or supplies may not be instituted against the  
243 contractor or the surety unless both notices have been given.  
244 Written notices required or permitted under this section must  
245 ~~may~~ be served in accordance with ~~any manner provided in s.~~  
246 713.18.

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

249 Section 3. Present subsections (13) through (29) of section  
250 713.01, Florida Statutes, are redesignated as subsections (14)  
251 through (30), respectively, a new subsection (13) is added to  
252 that section, and subsections (4), (8), and (12) of that section  
253 are amended, to read:

254 713.01 Definitions.—As used in this part, the term:

255 (4) "Clerk's office" means the office of the clerk of the  
256 circuit court of the county, or another office serving as the  
257 county recorder as provided by law, in which the real property  
258 is located.

259 (8) "Contractor" means a person other than a materialman or  
260 laborer who enters into a contract with the owner of real  
261 property for improving it, or who takes over from a contractor

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262 as so defined the entire remaining work under such contract. The  
263 term "contractor" includes an architect, landscape architect, or  
264 engineer who improves real property pursuant to a design-build  
265 contract authorized by s. 489.103(16). The term also includes a  
266 licensed general contractor or building contractor, as those  
267 terms are defined in s. 489.105(3)(a) and (b), respectively, who  
268 provides construction management services, which include  
269 scheduling and coordinating preconstruction and construction  
270 phases for the construction project, or who provides program  
271 management services, which include schedule control, cost  
272 control, and coordinating the provision or procurement of  
273 planning, design, and construction for the construction project.

274 (12) "Final furnishing" means the last date that the lienor  
275 furnishes labor, services, or materials. Such date may not be  
276 measured by other standards, such as the issuance of a  
277 certificate of occupancy or the issuance of a certificate of  
278 final completion, and does not include the correction of  
279 deficiencies in the lienor's previously performed work or  
280 materials supplied. With respect to rental equipment, the term  
281 means the date that the rental equipment was last on the ~~job~~  
282 site of the improvement and available for use.

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

287 Section 4. Section 713.011, Florida Statutes, is created to  
288 read:

289 713.011 Computation of time.—In computing any time period  
290 under this part, if the last day of the time period is a

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291 Saturday, Sunday, or holiday specified in s. 110.117(1), or any  
292 day observed as a holiday by the clerk's office or designated as  
293 a holiday by the chief judge of the circuit, the time period is  
294 extended to the end of the next business day.

295 Section 5. Paragraph (b) of subsection (2) of section  
296 713.10, Florida Statutes, is amended, and subsection (4) is  
297 added to that section, to read:

298 713.10 Extent of liens.—

299 (2)

300 (b) The interest of the lessor is ~~not~~ subject to liens for  
301 improvements made by the lessee unless when:

302 1. The lease, or a short form or a memorandum of the lease  
303 that contains the specific language in the lease prohibiting  
304 such liability, is recorded in the official records of the  
305 county where the premises are located before the recording of a  
306 notice of commencement for improvements to the premises and the  
307 terms of the lease expressly prohibit such liability; or

308 2. The terms of the lease expressly prohibit such  
309 liability, and a notice advising that leases for the rental of  
310 premises on a parcel of land prohibit such liability has been  
311 recorded in the official records of the county in which the  
312 parcel of land is located before the recording of a notice of  
313 commencement for improvements to the premises, and the notice  
314 includes the following:

315 a. The name of the lessor.

316 b. The legal description of the parcel of land to which the  
317 notice applies.

318 c. The specific language contained in the various leases  
319 prohibiting such liability.

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320 d. A statement that all or a majority of the leases entered  
321 into for premises on the parcel of land expressly prohibit such  
322 liability.

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

325  
326 A notice that is consistent with subparagraph 2. effectively  
327 prohibits liens for improvements made by a lessee even if other  
328 leases for premises on the parcel do not expressly prohibit  
329 liens or if provisions of each lease restricting the application  
330 of liens are not identical.

331 (4) The interest of the lessor is not subject to liens for  
332 improvements made by the lessee when the lessee is a mobile home  
333 owner who is leasing a mobile home lot in a mobile home park  
334 from the lessor.

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

337 713.13 Notice of commencement.—

338 (1) (a) Except for an improvement that is exempt under  
339 ~~pursuant to~~ s. 713.02(5), an owner or the owner's authorized  
340 agent before actually commencing to improve any real property,  
341 or recommencing completion of any improvement after default or  
342 abandonment, whether or not a project has a payment bond  
343 complying with s. 713.23, shall record a notice of commencement  
344 in the clerk's office and ~~forthwith~~ post either a certified copy  
345 thereof or a notarized statement that the notice of commencement  
346 has been filed for recording along with a copy thereof. The  
347 notice of commencement must ~~shall~~ contain all of the following  
348 information:

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349 1. A description sufficient for identification of the real  
350 property to be improved. The description must ~~should~~ include the  
351 legal description of the property and ~~also should include~~ the  
352 street address and tax folio number of the property if available  
353 or, if the ~~there is no~~ street address is not available, such  
354 additional information as will describe the physical location of  
355 the real property to be improved.

356 2. A general description of the improvement.

357 3. The name and address of the owner, the owner's interest  
358 in the site of the improvement, and the name and address of the  
359 fee simple titleholder, if other than such owner. A lessee who  
360 contracts for the improvements is an owner as defined in s.  
361 713.01 ~~under s. 713.01(23)~~ and must be listed as the owner  
362 together with a statement that the ownership interest is a  
363 leasehold interest.

364 4. The name and address of the contractor.

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

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

369 7. The name and address within the state of a person other  
370 than himself or herself who may be designated by the owner as  
371 the person upon whom notices or other documents may be served  
372 under this part; and service upon the person so designated  
373 constitutes service upon the owner.

374 (d) A notice of commencement must be in substantially the  
375 following form:

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377 Permit No.....

Tax Folio No.....

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NOTICE OF COMMENCEMENT

State of....  
County of....

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

- 1. Description of property: ...(legal description of the property, and street address if available)....
- 2. General description of improvement:.....
- 3. Owner information or Lessee information if the Lessee contracted for the improvement:
  - a. Name and address:.....
  - b. Interest in property:.....
  - c. Name and address of fee simple titleholder (if different from Owner listed above):.....
- 4.a. Contractor: ...(name and address)....
- b. Contractor's phone number:.....
- 5. Surety (if applicable, a copy of the payment bond is attached):
  - a. Name and address:.....
  - b. Phone number:.....
  - c. Amount of bond: \$.....
- 6.a. Lender: ...(name and address)....
- b. Lender's phone number:.....
- 7. Persons within the State of Florida designated by Owner upon whom notices or other documents may be served as provided by Section 713.13(1)(a)7., Florida Statutes:

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a. Name and address:.....

b. Phone numbers of designated persons:.....

8.a. In addition to himself or herself, Owner designates  
..... of ..... to receive a copy of the Lienor's  
Notice as provided in Section 713.13(1)(b), Florida Statutes.

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

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

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

...(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

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436 person)... as ...(type of authority, . . . e.g. officer,  
437 trustee, attorney in fact)... for ...(name of party on behalf of  
438 whom instrument was executed)....

439  
440 ...(Signature of Notary Public - State of Florida)...

441  
442 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

443

444 Personally Known .... OR Produced Identification ....

445

446 Type of Identification Produced.....

447 Section 7. Present subsection (4) of section 713.132,  
448 Florida Statutes, is redesignated as subsection (5) and amended,  
449 a new subsection (4) is added to that section, and subsections  
450 (1) and (3) of that section are amended, to read:

451 713.132 Notice of termination.—

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

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

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

460 (c) A statement of the date as of which the notice of  
461 commencement is terminated, which date may not be earlier than  
462 30 days after the notice of termination is recorded.†

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



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465 specifying the portion of such real property to which it  
466 applies.~~†~~

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

469 (f) A statement that the owner has, before recording the  
470 notice of termination, served a copy of the notice of  
471 termination ~~on the contractor and~~ on each lienor who has a  
472 direct contract with the owner or who has timely served a notice  
473 to owner, and a statement that the owner will serve a copy of  
474 the notice of termination on each lienor who timely serves a  
475 notice to owner after the notice of termination has been  
476 recorded. The owner is not required to serve a copy of the  
477 notice of termination on any lienor who has executed a waiver  
478 and release of lien upon final payment in accordance with s.  
479 713.20.

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

484 (4) If an owner or a contractor, by fraud or collusion,  
485 knowingly makes any fraudulent statement or affidavit in a  
486 notice of termination or any accompanying affidavit, the owner  
487 and the contractor, or either of them, ~~as the case may be,~~ is  
488 liable to any lienor who suffers damages as a result of the  
489 filing of the fraudulent notice of termination,~~†~~ and any such  
490 lienor has a right of action for damages ~~occasioned thereby~~.

491 (5)~~(4)~~ A notice of termination must be served on each  
492 lienor who has a direct contract with the owner and on each  
493 lienor who has timely and properly served a notice to owner in

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494 accordance with this part before the recording of the notice of  
 495 termination. A notice of termination must be recorded in the  
 496 official records of the county in which the improvement is  
 497 located. If properly served before recording in accordance with  
 498 this subsection, the notice of termination terminates the period  
 499 of effectiveness of the notice of commencement 30 days after the  
 500 notice of termination is recorded in the official records ~~is~~  
 501 ~~effective to terminate the notice of commencement at the later~~  
 502 ~~of 30 days after recording of the notice of termination or a~~  
 503 ~~later the~~ date stated in the notice of termination as the date  
 504 on which the notice of commencement is terminated. However, if a  
 505 lienor who began work under the notice of commencement before  
 506 its termination lacks a direct contract with the owner and  
 507 timely serves his or her notice to the owner after the notice of  
 508 termination has been recorded, the owner must serve a copy of  
 509 the notice of termination upon such lienor, and the termination  
 510 of the notice of commencement as to that lienor is effective 30  
 511 days after service of the notice of termination, ~~if the notice~~  
 512 ~~of termination has been served pursuant to paragraph (1)(f) on~~  
 513 ~~the contractor and on each lienor who has a direct contract with~~  
 514 ~~the owner or who has served a notice to owner.~~

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

517 713.135 Notice of commencement and applicability of lien.—

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

520 (a) Print on the face of each permit card in no less than  
 521 14-point, capitalized, boldfaced type: "WARNING TO OWNER: YOUR  
 522 FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR

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

528 (b) Provide the applicant and the owner of the real  
529 property upon which improvements are to be constructed with a  
530 printed statement stating that the right, title, and interest of  
531 the person who has contracted for the improvement may be subject  
532 to attachment under the Construction Lien Law. The Department of  
533 Business and Professional Regulation shall furnish, for  
534 distribution, the statement described in this paragraph, and the  
535 statement must be a summary of the Construction Lien Law and  
536 must include an explanation of the provisions of the  
537 Construction Lien Law relating to the recording, and the posting  
538 of copies, of notices of commencement and a statement  
539 encouraging the owner to record a notice of commencement and  
540 post a copy of the notice of commencement in accordance with s.  
541 713.13. The statement must also contain an explanation of the  
542 owner's rights if a lienor fails to furnish the owner with a  
543 notice as provided in s. 713.06(2) and an explanation of the  
544 owner's rights as provided in s. 713.22. The authority that  
545 issues the building permit must obtain from the Department of  
546 Business and Professional Regulation the statement required by  
547 this paragraph and must mail, deliver by electronic mail or  
548 other electronic format or facsimile, or personally deliver that  
549 statement to the owner or, in a case in which the owner is  
550 required to personally appear to obtain the permit, provide that  
551 statement to any owner making improvements to real property

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552 consisting of a single or multiple family dwelling up to and  
553 including four units. However, the failure by the authorities to  
554 provide the summary does not subject the issuing authority to  
555 liability.

556 (c) In addition to providing the owner with the statement  
557 as required by paragraph (b), inform each applicant who is not  
558 the person whose right, title, and interest is subject to  
559 attachment that, as a condition to the issuance of a building  
560 permit, the applicant must promise in good faith that the  
561 statement will be delivered to the person whose property is  
562 subject to attachment.

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

565 (e) Require ~~If the direct contract is greater than \$2,500,~~  
566 the applicant to shall file with the issuing authority before  
567 ~~prior to~~ the first inspection ~~either a certified copy of the~~  
568 ~~recorded~~ notice of commencement if the direct contract is  
569 greater than \$7,500. For purposes of this paragraph, the term  
570 "copy of the notice of commencement" means a certified copy of  
571 the recorded notice of commencement, or a notarized statement  
572 that the notice of commencement has been filed for recording,  
573 along with a copy thereof, or the clerk's office's official  
574 records identifying information that includes the instrument  
575 number for the notice of commencement or the number and page of  
576 book where the notice of commencement is recorded, as identified  
577 by the clerk.

578 1. In the absence of the filing of a ~~certified~~ copy of the  
579 ~~recorded~~ notice of commencement, the issuing authority or a  
580 private provider performing inspection services may not perform

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581 or approve subsequent inspections until the applicant files by  
582 mail, facsimile, hand delivery, or any other means such  
583 ~~certified~~ copy with the issuing authority.

584 2. The ~~certified~~ copy of the notice of commencement must  
585 contain the name and address of the owner, the name and address  
586 of the contractor, and the location or address of the property  
587 being improved. The issuing authority shall verify that the name  
588 and address of the owner, the name of the contractor, and the  
589 location or address of the property being improved which is  
590 contained in the ~~certified~~ copy of the notice of commencement is  
591 consistent with the information in the building permit  
592 application.

593 3. The issuing authority shall provide the recording  
594 information on the ~~certified~~ copy of the ~~recorded~~ notice of  
595 commencement to any person upon request.

596 4. This paragraph ~~subsection~~ does not require the recording  
597 of a notice of commencement before ~~prior to~~ the issuance of a  
598 building permit. If a local government requires a separate  
599 permit or inspection for installation of temporary electrical  
600 service or other temporary utility service, land clearing, or  
601 other preliminary site work, such permits may be issued and such  
602 inspections may be conducted without providing the issuing  
603 authority with a ~~certified~~ copy of the ~~a recorded~~ notice of  
604 commencement ~~or a notarized statement regarding a recorded~~  
605 ~~notice of commencement. This subsection does not apply to a~~  
606 ~~direct contract to repair or replace an existing heating or air-~~  
607 ~~conditioning system in an amount less than \$15,000.~~

608 (f) ~~(e)~~ Not require that a notice of commencement be  
609 recorded as a condition of the application for, or processing or

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610 issuance of, a building permit. However, this paragraph does not  
611 modify or waive the inspection requirements set forth in this  
612 subsection.

613  
614 This subsection does not apply to a direct contract to repair or  
615 replace an existing heating or air-conditioning system in an  
616 amount less than \$15,000.

617 (3) An issuing authority under subsection (1) is not liable  
618 in any civil action for the failure to verify that a certified  
619 copy of the recorded notice of commencement, a notarized  
620 statement that the notice of commencement has been filed for  
621 recording along with a copy thereof, or the clerk's office's  
622 official records identifying information that includes the  
623 instrument number for the notice of commencement or the number  
624 and page of book where the notice of commencement is recorded,  
625 as identified by the clerk, has been filed in accordance with  
626 this section.

627 Section 9. Section 713.18, Florida Statutes, is amended to  
628 read:

629 713.18 Manner of serving documents ~~notices and other~~  
630 ~~instruments.~~-

631 (1) Unless otherwise specifically provided by law, service  
632 of any document ~~notices, claims of lien, affidavits,~~  
633 ~~assignments, and other instruments~~ permitted or required under  
634 this part, s. 255.05, or s. 337.18, or copies thereof when so  
635 permitted or required, ~~unless otherwise specifically provided in~~  
636 ~~this part,~~ must be made by one of the following methods:

637 (a) By hand ~~actual~~ delivery to the person to be served; if  
638 a partnership, to one of the partners; if a corporation, to an

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639 officer or a, director, ~~managing agent, or business agent; or,~~  
640 if a limited liability company, to a member or manager; or to an  
641 employee or agent authorized by the partnership, corporation, or  
642 limited liability company to receive service of such document.

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

647 (c) By posting on the site of the improvement if service as  
648 provided by paragraph (a) or paragraph (b) cannot be  
649 accomplished.

650 (2) Notwithstanding subsection (1), service of a notice to  
651 owner or a preliminary notice to contractor under this part, s.  
652 255.05, or s. 337.18, ~~or s. 713.23~~ is effective as of the date  
653 of mailing and the requirements for service under this section  
654 have been satisfied if all of the following requirements have  
655 been met:

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

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

662 (c)1. The person who served the notice maintains a  
663 ~~registered or certified~~ mail log that shows the registered or  
664 certified mail number issued by the United States Postal  
665 Service, the name and address of the person served, and the date  
666 stamp of the United States Postal Service confirming the date of  
667 mailing; or

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668           2. The person who served the notice maintains ~~electronic~~  
669 tracking records approved or generated by the United States  
670 Postal Service containing the postal tracking number, ~~the name~~  
671 ~~and address of the person served,~~ and verification of the date  
672 of receipt by the United States Postal Service.

673           (3) (a) Notwithstanding subsection (1), service of a  
674 document under an instrument pursuant to this section is  
675 effective on the date of mailing or shipping, and the  
676 requirements for service under this section have been satisfied,  
677 ~~the instrument~~ if the document is it:

678           1. ~~Is~~ Sent to the last address shown in the notice of  
679 commencement or any amendment thereto or, in the absence of a  
680 notice of commencement, to the last address shown in the  
681 building permit application, or to the last known address of the  
682 person to be served; and

683           2. ~~Is~~ Returned as being "refused," "moved, not  
684 forwardable," or "unclaimed," or is otherwise not delivered or  
685 deliverable through no fault of the person serving the document  
686 ~~item.~~

687           (b) If the address shown in the notice of commencement or  
688 any amendment thereto ~~to the notice of commencement,~~ or, in the  
689 absence of a notice of commencement, in the building permit  
690 application, is incomplete for purposes of mailing or delivery,  
691 the person serving the document ~~item~~ may complete the address  
692 and properly format it according to United States Postal Service  
693 addressing standards using information obtained from the  
694 property appraiser or another public record without affecting  
695 the validity of service under this section.

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



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

699 Section 10. Section 713.21, Florida Statutes, is amended to  
700 read:

701 713.21 Discharge of lien.—A lien properly perfected under  
702 this chapter may be discharged, or released in whole or in part,  
703 by any of the following methods:

704 (1) By entering satisfaction of the lien upon the margin of  
705 the record thereof in the clerk's office when not otherwise  
706 prohibited by law. This satisfaction must ~~shall~~ be signed by the  
707 lienor or ~~the~~ lienor's agent or attorney and attested by the  
708 ~~said~~ clerk. Any person who executes a claim of lien has ~~shall~~  
709 ~~have~~ authority to execute a satisfaction in the absence of  
710 actual notice of lack of authority to any person relying on the  
711 same.

712 (2) By the satisfaction or release of the lienor, duly  
713 acknowledged and recorded in the clerk's office. The  
714 satisfaction or release must include the lienor's notarized  
715 signature and set forth the official records' reference number  
716 and recording date affixed by the recording office on the  
717 subject lien. Any person who executes a claim of lien has ~~shall~~  
718 ~~have~~ authority to execute a satisfaction or release in the  
719 absence of actual notice of lack of authority to any person  
720 relying on the same.

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

723 (4) By an order of the circuit court of the county where  
724 the property is located, as provided in this subsection. Upon  
725 filing a complaint ~~therefor~~ by any interested party, the clerk

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726 shall issue a summons to the lienor to show cause within 20 days  
 727 why his or her lien should not be enforced by action or vacated  
 728 and canceled of record. Upon failure of the lienor to show cause  
 729 why his or her lien should not be enforced or the lienor's  
 730 failure to commence such action before the return date of the  
 731 summons, the court shall ~~forthwith~~ order cancellation of the  
 732 lien.

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

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

738 713.22 Duration of lien.—

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

744

745 NOTICE OF CONTEST OF LIEN

746

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

748

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

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

The lien of any lienor upon whom such notice is served and who fails to institute a suit to enforce his or her lien within 60 days after service of such notice is ~~shall be~~ extinguished automatically. The clerk shall serve, in accordance with s. 713.18, a copy of the notice of contest on ~~to~~ the lienor ~~lien claimant~~ at the address shown in the claim of lien or most recent amendment thereto and shall certify to such service and the date of service on the face of the notice and record the notice. After the clerk records the notice with the certificate of service, the clerk shall serve, in accordance with s. 713.18, a copy of such recorded notice on the lienor and the owner or the owner's attorney.

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

713.23 Payment bond.—

(1)

(d) In addition, a lienor who has not received payment for furnishing his or her labor, services, or materials must, as a condition precedent to recovery under the bond, serve a written notice of nonpayment on ~~to~~ the contractor and a copy of the notice of nonpayment on the surety. The notice of nonpayment must be under oath and served during the progress of the work or thereafter, but may not be served later than 90 days after the final furnishing of labor, services, or materials by the lienor, or, with respect to rental equipment, later than 90 days after the date the rental equipment was on the ~~job~~ site of the

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784 improvement and available for use. A notice of nonpayment that  
785 includes sums for retainage must specify the portion of the  
786 amount claimed for retainage. The required notice satisfies this  
787 condition precedent with respect to the payment described in the  
788 notice of nonpayment, including unpaid finance charges due under  
789 the lienor's contract, and with respect to any other payments  
790 which become due to the lienor after the date of the notice of  
791 nonpayment. The time period for serving a notice of nonpayment  
792 is ~~shall be~~ measured from the last day of furnishing labor,  
793 services, or materials by the lienor and may not be measured by  
794 other standards, such as the issuance of a certificate of  
795 occupancy or the issuance of a certificate of substantial  
796 completion. The failure of a lienor to receive retainage sums  
797 not in excess of 10 percent of the value of labor, services, or  
798 materials furnished by the lienor is not considered a nonpayment  
799 requiring the service of the notice provided under this  
800 paragraph. If the payment bond is not recorded before  
801 commencement of construction, the time period for the lienor to  
802 serve a notice of nonpayment may, at the option of the lienor,  
803 be calculated from the date specified in this section or the  
804 date the lienor is served a copy of the bond. However, the  
805 limitation period for commencement of an action on the payment  
806 bond as established in paragraph (e) may not be expanded. The  
807 negligent inclusion or omission of any information in the notice  
808 of nonpayment that has not prejudiced the contractor or surety  
809 does not constitute a default that operates to defeat an  
810 otherwise valid bond claim. A lienor who serves a fraudulent  
811 notice of nonpayment forfeits his or her rights under the bond.  
812 A notice of nonpayment is fraudulent if the lienor has willfully

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813 exaggerated the amount unpaid, willfully included a claim for  
814 work not performed or materials not furnished for the subject  
815 improvement, or prepared the notice with such willful and gross  
816 negligence as to amount to a willful exaggeration. However, a  
817 minor mistake or error in a notice of nonpayment, or a good  
818 faith dispute as to the amount unpaid, does not constitute a  
819 willful exaggeration that operates to defeat an otherwise valid  
820 claim against the bond. The service of a fraudulent notice of  
821 nonpayment is a complete defense to the lienor's claim against  
822 the bond. The notice under this paragraph must include the  
823 following information, current as of the date of the notice, and  
824 must be in substantially the following form:

825

826 NOTICE OF NONPAYMENT

827

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

829

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

831

832 The undersigned lienor notifies you that:

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

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

841 3. The lienor expects to furnish ...(describe labor,

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842 services, or materials)... for this improvement in the future  
843 (if known), and the corresponding amount expected to become due  
844 is \$.... (if known).

845  
846 I declare that I have read the foregoing Notice of Nonpayment  
847 and that the facts stated in it are true to the best of my  
848 knowledge and belief.

849  
850 DATED on ....., .....

851  
852 ... (signature and address of lienor)...

853  
854 STATE OF FLORIDA  
855 COUNTY OF.....

856  
857 The foregoing instrument was sworn to (or affirmed) and  
858 subscribed before me by means of  physical presence or sworn to  
859 (or affirmed) by  online notarization this .... day of .....,  
860 ... (year)...., by ... (name of signatory)....

861 ... (Signature of Notary Public - State of Florida) ...  
862 ... (Print, Type, or Stamp Commissioned Name of Notary  
863 Public) ...

864  
865 Personally Known ..... OR Produced Identification .....

866  
867 Type of Identification Produced.....

868 (e) An action for the labor, ~~or~~ materials, or supplies may  
869 not be instituted or prosecuted against the contractor or surety  
870 unless both notices have been given, if required by this

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871 section. An action may not be instituted or prosecuted against  
 872 the contractor or against the surety on the bond under this  
 873 section after 1 year from the performance of the labor or  
 874 completion of delivery of the materials and supplies. The time  
 875 period for bringing an action against the contractor or surety  
 876 on the bond is ~~shall be~~ measured from the last day of furnishing  
 877 labor, services, or materials by the lienor. The time period may  
 878 not be measured by other standards, such as the issuance of a  
 879 certificate of occupancy or the issuance of a certificate of  
 880 substantial completion. A contractor or the contractor's  
 881 attorney may elect to shorten the time within which an action to  
 882 enforce any claim against a payment bond provided under this  
 883 section or s. 713.245 must be commenced at any time after a  
 884 notice of nonpayment, if required, has been served for the claim  
 885 by recording in the clerk's office a notice in substantially the  
 886 following form:

887 NOTICE OF CONTEST OF CLAIM  
 888 AGAINST PAYMENT BOND

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

890 You are notified that the undersigned contests your notice  
 891 of nonpayment, dated ....., ....., and served on the undersigned  
 892 on ....., ....., and that the time within which you may file suit  
 893 to enforce your claim is limited to 60 days after ~~from~~ the date  
 894 of service of this notice.

895 DATED on ....., .....

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

897  
 898 The claim of any lienor upon whom the notice is served and who  
 899 fails to institute a suit to enforce his or her claim against

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900 the payment bond within 60 days after service of the notice is  
 901 ~~shall be~~ extinguished automatically. The contractor or the  
 902 contractor's attorney shall serve, in accordance with s. 713.18,  
 903 a copy of the notice of contest to the lienor at the address  
 904 shown in the notice of nonpayment or most recent amendment  
 905 thereto and shall certify to such service on the face of the  
 906 notice and record the notice. After the clerk records the notice  
 907 with the certificate of service, the clerk shall serve, in  
 908 accordance with s. 713.18, a copy of such recorded notice on the  
 909 lienor and the contractor or the contractor's attorney.

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

912 713.24 Transfer of liens to security.—

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

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

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

920  
 921 ~~either to be~~ in an amount equal to the amount demanded in such  
 922 claim of lien, plus interest thereon at the legal rate for 3  
 923 years, plus \$5,000 ~~\$1,000~~ or 25 percent of the amount demanded  
 924 in the claim of lien, whichever is greater, to apply on any  
 925 attorney ~~attorney's~~ fees and court costs that may be taxed in  
 926 any proceeding to enforce the ~~said~~ lien. Such deposit or bond  
 927 must ~~shall~~ be conditioned to pay any judgment or decree which  
 928 may be rendered for the satisfaction of the lien for which such



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929 claim of lien was recorded. Upon making such deposit or filing  
930 such bond, the clerk shall make and record a certificate, which  
931 must include a copy of the deposit or bond used to transfer,  
932 showing the transfer of the lien from the real property to the  
933 security and shall mail a copy thereof together with a copy of  
934 the deposit or bond used to transfer by registered or certified  
935 mail to the lienor named in the claim of lien so transferred, at  
936 the address stated therein. Upon filing the certificate of  
937 transfer, the real property is ~~shall thereupon be~~ released from  
938 the lien claimed, and such lien is ~~shall be~~ transferred to the  
939 ~~said~~ security. In the absence of allegations of privity between  
940 the lienor and the owner, and subject to any order of the court  
941 increasing the amount required for the lien transfer deposit or  
942 bond, no other judgment or decree to pay money may be entered by  
943 the court against the owner. The clerk is ~~shall be~~ entitled to a  
944 service charge for making and serving the certificate, in the  
945 amount of up to \$20, from which the clerk shall remit \$5 to the  
946 Department of Revenue for deposit into the General Revenue Fund.  
947 If the transaction involves the transfer of multiple liens, the  
948 clerk must charge an additional service charge of up to \$10 for  
949 each additional lien ~~shall be charged~~, from which the clerk  
950 shall remit \$2.50 to the Department of Revenue for deposit into  
951 the General Revenue Fund. For recording the certificate and  
952 approving the bond, the clerk shall receive her or his usual  
953 statutory service charges as prescribed in s. 28.24. Any number  
954 of liens may be transferred to one such security.

955 (3) Any party having an interest in such security or the  
956 property from which the lien was transferred may at any time,  
957 and any number of times, file a complaint in chancery in the

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958 circuit court of the county where such security is deposited, or  
959 file a motion in a pending action to enforce a lien, for an  
960 order to require additional security, reduction of security,  
961 change or substitution of sureties, payment of discharge  
962 thereof, or any other matter affecting the ~~said~~ security. If the  
963 court finds that the amount of the deposit or bond in excess of  
964 the amount claimed in the claim of lien is insufficient to pay  
965 the lienor's attorney ~~attorney's~~ fees and court costs incurred  
966 in the action to enforce the lien, the court must increase the  
967 amount of the cash deposit or lien transfer bond. ~~Nothing in~~  
968 This section may not ~~shall~~ be construed to vest exclusive  
969 jurisdiction in the circuit courts over transfer bond claims for  
970 nonpayment of an amount within the monetary jurisdiction of the  
971 county courts.

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

973 Section 15. Section 713.29, Florida Statutes, is amended to  
974 read:

975 713.29 Attorney ~~Attorney's~~ fees.—In any action brought to  
976 enforce a lien, including a lien that has been transferred to  
977 security, or to enforce a claim against a bond under this part,  
978 the prevailing party is entitled to recover a reasonable fee for  
979 the services of her or his attorney for trial and appeal or for  
980 arbitration, in an amount to be determined by the court, which  
981 fee must be taxed as part of the prevailing party's costs, as  
982 allowed in equitable actions.

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