

By the Committees on Rules; and Judiciary; and Senators Grall  
and Perry

595-04032-23

2023624c2

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

595-04032-23

2023624c2

30 terminates a notice of commencement; amending s.  
31 713.135, F.S.; providing a definition; providing  
32 applicability; revising the dollar threshold of an  
33 exception; providing immunity; making technical  
34 changes; amending s. 713.18, F.S.; requiring service  
35 of documents relating to construction bonds to be made  
36 in a specified manner; authorizing employees or agents  
37 of specified entities to receive service of certain  
38 documents; making technical changes; amending s.  
39 713.21, F.S.; authorizing the full or partial release  
40 of a lien under specified conditions; making technical  
41 changes; amending s. 713.22, F.S.; requiring the clerk  
42 to serve a copy of a notice of contest of lien on  
43 certain persons after it has been recorded; requiring  
44 the clerk of the court to charge fees for such  
45 services as provided by law; making technical changes;  
46 amending s. 713.23, F.S.; requiring that a copy of a  
47 notice of nonpayment be served on the surety; revising  
48 the process for notarizing a notice of nonpayment  
49 under a payment bond; requiring the clerk to serve a  
50 copy of a notice of contest of lien on certain persons  
51 after it has been recorded; requiring the clerk of the  
52 court to charge fees for such services as provided by  
53 law; amending s. 713.24, F.S.; revising the amount  
54 required in addition to the deposit or bond which  
55 applies toward attorney fees and court costs;  
56 requiring the clerk to make a copy of the deposit or  
57 bond used to transfer a lien to other security and  
58 mail it to the lienor; making technical changes;

595-04032-23

2023624c2

59       repealing s. 713.25, F.S., relating to applicability  
60       of ch. 65-456, Laws of Florida; amending s. 713.29,  
61       F.S.; authorizing attorney fees in actions brought to  
62       enforce a lien that has been transferred to security;  
63       making technical changes; providing an effective date.

64

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

66

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

70       255.05 Bond of contractor constructing public buildings;  
71       form; action by claimants.—

72       (2) (a) 1. If a claimant is no longer furnishing labor,  
73       services, or materials on a project, a contractor or the  
74       contractor's agent or attorney may elect to shorten the time  
75       within which an action to enforce any claim against a payment  
76       bond must be commenced by recording in the clerk's office a  
77       notice in substantially the following form:

78

79                                   NOTICE OF CONTEST OF CLAIM  
80                                   AGAINST PAYMENT BOND

81

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

83

84       You are notified that the undersigned contests your notice  
85       of nonpayment, dated ....., ....., and served on the  
86       undersigned on ....., ....., and that the time within  
87       which you may file suit to enforce your claim is limited to 60

595-04032-23

2023624c2

88 days after the date of service of this notice.

89

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

91

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

93

94 The claim of a claimant upon whom such notice is served and who  
 95 fails to institute a suit to enforce his or her claim against  
 96 the payment bond within 60 days after service of such notice is  
 97 extinguished automatically. The contractor or the contractor's  
 98 attorney shall serve a copy of the notice of contest on ~~to~~ the  
 99 claimant at the address shown in the notice of nonpayment or  
 100 most recent amendment thereto and shall certify to such service  
 101 on the face of the notice and record the notice. After the clerk  
 102 records the notice with the certificate of service, the clerk  
 103 shall serve, in accordance with s. 713.18, a copy of such  
 104 recorded notice on the claimant and the contractor or the  
 105 contractor's attorney. The clerk of the court shall charge fees  
 106 for such services as provided by law.

107 2. A claimant, except a laborer, who is not in privity with  
 108 the contractor shall, before commencing or not later than 45  
 109 days after commencing to furnish labor, services, or materials  
 110 for the prosecution of the work, serve the contractor with a  
 111 written notice that he or she intends to look to the bond for  
 112 protection. If the payment bond is not recorded before the  
 113 commencement of work or before the recommencement of work after  
 114 a default or abandonment as required by subsection (1), the  
 115 claimant may serve the contractor with such written notice up to  
 116 45 days after the date that the claimant is served with a copy

595-04032-23

2023624c2

117 of the bond. A claimant who is not in privity with the  
118 contractor and who has not received payment for furnishing his  
119 or her labor, services, or materials shall serve a written  
120 notice of nonpayment on the contractor and a copy of the notice  
121 of nonpayment on the surety. The notice of nonpayment must ~~shall~~  
122 be under oath and served during the progress of the work or  
123 thereafter but may not be served earlier than 45 days after the  
124 first furnishing of labor, services, or materials by the  
125 claimant or later than 90 days after the final furnishing of the  
126 labor, services, or materials by the claimant or, with respect  
127 to rental equipment, later than 90 days after the date that the  
128 rental equipment was last on the ~~job~~ site of the improvement and  
129 available for use. Any notice of nonpayment served by a claimant  
130 who is not in privity with the contractor which includes sums  
131 for retainage must specify the portion of the amount claimed for  
132 retainage. An action for the labor, services, or materials may  
133 not be instituted against the contractor or the surety unless  
134 the notice to the contractor and notice of nonpayment have been  
135 served, if required by this section. Notices required or  
136 permitted under this section must be served in accordance with  
137 s. 713.18. A claimant may not waive in advance his or her right  
138 to bring an action under the bond against the surety. In any  
139 action brought to enforce a claim against a payment bond under  
140 this section, the prevailing party is entitled to recover a  
141 reasonable fee for the services of his or her attorney for trial  
142 and appeal or for arbitration, in an amount to be determined by  
143 the court or arbitrator, which fee must be taxed as part of the  
144 prevailing party's costs, as allowed in equitable actions. The  
145 time periods for service of a notice of nonpayment or for

595-04032-23

2023624c2

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

171 NOTICE OF NONPAYMENT

172  
173 To: ...(name of contractor and address)...

595-04032-23

2023624c2

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

176

177 The undersigned claimant notifies you that:

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

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

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

190

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

194

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

196

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

198

199 STATE OF FLORIDA

200 COUNTY OF .....

201

202 The foregoing instrument was sworn to (or affirmed) and  
203 subscribed before me by means of  physical presence or sworn to

595-04032-23

2023624c2

204 (or affirmed) by  online notarization this .... day of .....,  
205 ...(year)..., by ...(name of signatory)....

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

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

209  
210 Personally Known ..... OR Produced Identification .....

211  
212 Type of Identification Produced.....  
213

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

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

229 Section 2. Paragraph (c) of subsection (1) of section  
230 337.18, Florida Statutes, is amended, and subsection (6) is  
231 added to that section, to read:

232 337.18 Surety bonds for construction or maintenance



595-04032-23

2023624c2

233 contracts; requirement with respect to contract award; bond  
234 requirements; defaults; damage assessments.-

235 (1)

236 (c) A claimant, except a laborer, who is not in privity  
237 with the contractor shall, before commencing or not later than  
238 90 days after commencing to furnish labor, materials, or  
239 supplies for the prosecution of the work, furnish the contractor  
240 with a notice that he or she intends to look to the bond for  
241 protection. A claimant who is not in privity with the contractor  
242 and who has not received payment for his or her labor,  
243 materials, or supplies shall deliver to the contractor and to  
244 the surety written notice of the performance of the labor or  
245 delivery of the materials or supplies and of the nonpayment. The  
246 notice of nonpayment may be served at any time during the  
247 progress of the work or thereafter but not before 45 days after  
248 the first furnishing of labor, services, or materials, and not  
249 later than 90 days after the final furnishing of the labor,  
250 services, or materials by the claimant or, with respect to  
251 rental equipment, not later than 90 days after the date that the  
252 rental equipment was last on the ~~job~~ site of the improvement and  
253 available for use. An action by a claimant, except a laborer,  
254 who is not in privity with the contractor for the labor,  
255 materials, or supplies may not be instituted against the  
256 contractor or the surety unless both notices have been given.  
257 Written notices required or permitted under this section must  
258 ~~may~~ be served in accordance with ~~any manner provided in~~ s.  
259 713.18.

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

595-04032-23

2023624c2

262 Section 3. Present subsections (13) through (29) of section  
263 713.01, Florida Statutes, are redesignated as subsections (14)  
264 through (30), respectively, a new subsection (13) is added to  
265 that section, and subsections (4), (8), and (12) of that section  
266 are amended, to read:

267 713.01 Definitions.—As used in this part, the term:

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

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

287 (12) "Final furnishing" means the last date that the lienor  
288 furnishes labor, services, or materials. Such date may not be  
289 measured by other standards, such as the issuance of a  
290 certificate of occupancy or the issuance of a certificate of

595-04032-23

2023624c2

291 final completion, and does not include the correction of  
292 deficiencies in the lienor's previously performed work or  
293 materials supplied. With respect to rental equipment, the term  
294 means the date that the rental equipment was last on the ~~job~~  
295 site of the improvement and available for use.

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

300 Section 4. Section 713.011, Florida Statutes, is created to  
301 read:

302 713.011 Computation of time.-

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

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

316 Section 5. Paragraph (b) of subsection (2) of section  
317 713.10, Florida Statutes, is amended, and subsection (4) is  
318 added to that section, to read:

319 713.10 Extent of liens.-

595-04032-23

2023624c2

320 (2)

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

323 1. The lease, or a short form or a memorandum of the lease  
324 that contains the specific language in the lease prohibiting  
325 such liability, is recorded in the official records of the  
326 county where the premises are located before the recording of a  
327 notice of commencement for improvements to the premises and the  
328 terms of the lease expressly prohibit such liability; or

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

336 a. The name of the lessor.

337 b. The legal description of the parcel of land to which the  
338 notice applies.

339 c. The specific language contained in the various leases  
340 prohibiting such liability.

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

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

346

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

595-04032-23

2023624c2

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

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

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

358 713.13 Notice of commencement.—

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

370 1. A description sufficient for identification of the real  
371 property to be improved. The description must ~~should~~ include the  
372 legal description of the property and ~~also should include~~ the  
373 street address and tax folio number of the property if available  
374 or, if the ~~there is no~~ street address is not available, such  
375 additional information as will describe the physical location of  
376 the real property to be improved.

377 2. A general description of the improvement.



595-04032-23

2023624c2

- 407 1. Description of property: ...(legal description of the
- 408 property, and street address if available)....
- 409 2. General description of improvement:.....
- 410 3. Owner information or Lessee information if the Lessee
- 411 contracted for the improvement:
- 412 a. Name and address:.....
- 413 b. Interest in property:.....
- 414 c. Name and address of fee simple titleholder (if different
- 415 from Owner listed above):.....
- 416 4.a. Contractor: ...(name and address)....
- 417 b. Contractor's phone number:.....
- 418 5. Surety (if applicable, a copy of the payment bond is
- 419 attached):
- 420 a. Name and address:.....
- 421 b. Phone number:.....
- 422 c. Amount of bond: \$.....
- 423 6.a. Lender: ...(name and address)....
- 424 b. Lender's phone number:.....
- 425 7. Persons within the State of Florida designated by Owner
- 426 upon whom notices or other documents may be served as provided
- 427 by Section 713.13(1)(a)7., Florida Statutes:
- 428 a. Name and address:.....
- 429 b. Phone numbers of designated persons:.....
- 430 8.a. In addition to himself or herself, Owner designates
- 431 ..... of ..... to receive a copy of the Lienor's
- 432 Notice as provided in Section 713.13(1)(b), Florida Statutes.
- 433 b. Phone number of person or entity designated by
- 434 owner:.....
- 435 9. Expiration date of notice of commencement (the

595-04032-23

2023624c2

436 expiration date will be 1 year after ~~from~~ the date of recording  
 437 unless a different date is specified).....

438  
 439 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE  
 440 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER  
 441 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA  
 442 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS  
 443 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND  
 444 POSTED ON THE ~~JOB~~ SITE OF THE IMPROVEMENT BEFORE THE FIRST  
 445 INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR  
 446 LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR  
 447 NOTICE OF COMMENCEMENT.

448  
 449 ... (Signature of Owner or Lessee, or Owner's or Lessee's  
 450 Authorized Officer/Director/Partner/Manager)...

451  
 452 ... (Signatory's Title/Office)...

453  
 454 The foregoing instrument was acknowledged before me by means of  
 455  physical presence or sworn to (or affirmed) by  online  
 456 notarization this .... day of ....., ... (year) ..., by ... (name of  
 457 person) ... as ... (type of authority, ... e.g. officer, trustee,  
 458 attorney in fact) ... for ... (name of party on behalf of whom  
 459 instrument was executed) ....

460  
 461 ... (Signature of Notary Public - State of Florida) ...

462  
 463 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

464



595-04032-23

2023624c2

465 Personally Known .... OR Produced Identification ....  
 466  
 467 Type of Identification Produced .....

468 Section 7. Subsections (1), (3), and (4) of section  
 469 713.132, Florida Statutes, are amended, and subsection (5) is  
 470 added to that section, to read:

471 713.132 Notice of termination.—

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

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

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

480 (c) A statement of the date as of which the notice of  
 481 commencement is terminated, which date may not be earlier than  
 482 30 days after the notice of termination is recorded.†

483 (d) A statement specifying that the notice applies to all  
 484 the real property subject to the notice of commencement or  
 485 specifying the portion of such real property to which it  
 486 applies.†

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

489 (f) A statement that the owner has, before recording the  
 490 notice of termination, served a copy of the notice of  
 491 termination ~~on the contractor and~~ on each lienor who has a  
 492 direct contract with the owner or who has timely served a notice  
 493 to owner, and a statement that the owner will serve a copy of

595-04032-23

2023624c2

494 the notice of termination on each lienor who timely serves a  
495 notice to owner after the notice of termination has been  
496 recorded. The owner is not required to serve a copy of the  
497 notice of termination on any lienor who has executed a waiver  
498 and release of lien upon final payment in accordance with s.  
499 713.20.

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

504 (4) If an owner or a contractor, by fraud or collusion,  
505 knowingly makes any fraudulent statement or affidavit in a  
506 notice of termination or any accompanying affidavit, the owner  
507 and the contractor, or either of them, ~~as the case may be,~~ is  
508 liable to any lienor who suffers damages as a result of the  
509 filing of the fraudulent notice of termination, + and any such  
510 lienor has a right of action for damages ~~occasioned thereby.~~

511 (5) ~~(4)~~ A notice of termination must be served before  
512 recording on each lienor who has a direct contract with the  
513 owner and on each lienor who has timely and properly served a  
514 notice to owner in accordance with this part before the  
515 recording of the notice of termination. A notice of termination  
516 must be recorded in the official records of the county in which  
517 the improvement is located. If properly served before recording  
518 in accordance with this subsection, the notice of termination  
519 terminates the period of effectiveness of the notice of  
520 commencement 30 days after the notice of termination is recorded  
521 in the official records ~~is effective to terminate the notice of~~  
522 ~~commencement at the later of 30 days after recording of the~~

595-04032-23

2023624c2

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

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

538 713.135 Notice of commencement and applicability of lien.-

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

541 (a) Print on the face of each permit card in no less than  
542 14-point, capitalized, boldfaced type: "WARNING TO OWNER: YOUR  
543 FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR  
544 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF  
545 COMMENCEMENT MUST BE RECORDED AND POSTED ON THE ~~JOB~~ SITE OF THE  
546 IMPROVEMENT BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN  
547 FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE  
548 RECORDING YOUR NOTICE OF COMMENCEMENT."

549 (b) Provide the applicant and the owner of the real  
550 property upon which improvements are to be constructed with a  
551 printed statement stating that the right, title, and interest of

595-04032-23

2023624c2

552 the person who has contracted for the improvement may be subject  
553 to attachment under the Construction Lien Law. The Department of  
554 Business and Professional Regulation shall furnish, for  
555 distribution, the statement described in this paragraph, and the  
556 statement must be a summary of the Construction Lien Law and  
557 must include an explanation of the provisions of the  
558 Construction Lien Law relating to the recording, and the posting  
559 of copies, of notices of commencement and a statement  
560 encouraging the owner to record a notice of commencement and  
561 post a copy of the notice of commencement in accordance with s.  
562 713.13. The statement must also contain an explanation of the  
563 owner's rights if a lienor fails to furnish the owner with a  
564 notice as provided in s. 713.06(2) and an explanation of the  
565 owner's rights as provided in s. 713.22. The authority that  
566 issues the building permit must obtain from the Department of  
567 Business and Professional Regulation the statement required by  
568 this paragraph and must mail, deliver by electronic mail or  
569 other electronic format or facsimile, or personally deliver that  
570 statement to the owner or, in a case in which the owner is  
571 required to personally appear to obtain the permit, provide that  
572 statement to any owner making improvements to real property  
573 consisting of a single or multiple family dwelling up to and  
574 including four units. However, the failure by the authorities to  
575 provide the summary does not subject the issuing authority to  
576 liability.

577 (c) In addition to providing the owner with the statement  
578 as required by paragraph (b), inform each applicant who is not  
579 the person whose right, title, and interest is subject to  
580 attachment that, as a condition to the issuance of a building

595-04032-23

2023624c2

581 permit, the applicant must promise in good faith that the  
582 statement will be delivered to the person whose property is  
583 subject to attachment.

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

586 (e) Require ~~If the direct contract is greater than \$2,500,~~  
587 the applicant to shall file with the issuing authority before  
588 ~~prior to~~ the first inspection ~~either a certified copy of the~~  
589 ~~recorded~~ notice of commencement if the direct contract is  
590 greater than \$7,500. For purposes of this paragraph, the term  
591 "copy of the notice of commencement" means a certified copy of  
592 the recorded notice of commencement, or a notarized statement  
593 that the notice of commencement has been filed for recording,  
594 along with a copy thereof, or the clerk's office's official  
595 records identifying information that includes the instrument  
596 number for the notice of commencement or the number and page of  
597 book where the notice of commencement is recorded, as identified  
598 by the clerk.

599 1. In the absence of the filing of a ~~certified~~ copy of the  
600 ~~recorded~~ notice of commencement, the issuing authority or a  
601 private provider performing inspection services may not perform  
602 or approve subsequent inspections until the applicant files by  
603 mail, facsimile, hand delivery, or any other means such  
604 ~~certified~~ copy with the issuing authority.

605 2. The ~~certified~~ copy of the notice of commencement must  
606 contain the name and address of the owner, the name and address  
607 of the contractor, and the location or address of the property  
608 being improved. The issuing authority shall verify that the name  
609 and address of the owner, the name of the contractor, and the

595-04032-23

2023624c2

610 location or address of the property being improved which is  
611 contained in the ~~certified~~ copy of the notice of commencement is  
612 consistent with the information in the building permit  
613 application.

614 3. The issuing authority shall provide the recording  
615 information on the ~~certified~~ copy of the ~~recorded~~ notice of  
616 commencement to any person upon request.

617 4. This paragraph subsection does not require the recording  
618 of a notice of commencement before ~~prior to~~ the issuance of a  
619 building permit. If a local government requires a separate  
620 permit or inspection for installation of temporary electrical  
621 service or other temporary utility service, land clearing, or  
622 other preliminary site work, such permits may be issued and such  
623 inspections may be conducted without providing the issuing  
624 authority with a ~~certified~~ copy of the ~~a recorded~~ notice of  
625 commencement ~~or a notarized statement regarding a recorded~~  
626 ~~notice of commencement. This subsection does not apply to a~~  
627 ~~direct contract to repair or replace an existing heating or air-~~  
628 ~~conditioning system in an amount less than \$15,000.~~

629 (f)(e) Not require that a notice of commencement be  
630 recorded as a condition of the application for, or processing or  
631 issuance of, a building permit. However, this paragraph does not  
632 modify or waive the inspection requirements set forth in this  
633 subsection.

634  
635 This subsection does not apply to a direct contract to repair or  
636 replace an existing heating or air-conditioning system in an  
637 amount less than \$15,000.

638 (3) An issuing authority under subsection (1) is not liable

595-04032-23

2023624c2

639 in any civil action for the failure to verify that a certified  
640 copy of the recorded notice of commencement, a notarized  
641 statement that the notice of commencement has been filed for  
642 recording along with a copy thereof, or the clerk's office's  
643 official records identifying information that includes the  
644 instrument number for the notice of commencement or the number  
645 and page of book where the notice of commencement is recorded,  
646 as identified by the clerk, has been filed in accordance with  
647 this section.

648 Section 9. Section 713.18, Florida Statutes, is amended to  
649 read:

650 713.18 Manner of serving documents ~~notices and other~~  
651 ~~instruments.~~

652 (1) Unless otherwise specifically provided by law, service  
653 of any document ~~notices, claims of lien, affidavits,~~  
654 ~~assignments, and other instruments~~ permitted or required under  
655 this part, s. 255.05, or s. 337.18, or copies thereof when so  
656 permitted or required, ~~unless otherwise specifically provided in~~  
657 ~~this part,~~ must be made by one of the following methods:

658 (a) By hand ~~actual~~ delivery to the person to be served; if  
659 a partnership, to one of the partners; if a corporation, to an  
660 officer or, director, ~~managing agent, or business agent; or,~~ if  
661 a limited liability company, to a member or manager; or to an  
662 employee or agent authorized by the partnership, corporation, or  
663 limited liability company to receive service of such document.

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

595-04032-23

2023624c2

668 (c) By posting on the site of the improvement if service as  
669 provided by paragraph (a) or paragraph (b) cannot be  
670 accomplished.

671 (2) Notwithstanding subsection (1), service of a notice to  
672 owner or a preliminary notice to contractor under this part, s.  
673 255.05, or s. 337.18,~~or s. 713.23~~ is effective as of the date  
674 of mailing, and the requirements for service under this section  
675 have been satisfied, if all of the following requirements have  
676 been met:

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

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

683 (c)1. The person who served the notice maintains a  
684 ~~registered or certified~~ mail log that shows the registered or  
685 certified mail number issued by the United States Postal  
686 Service, the name and address of the person served, and the date  
687 stamp of the United States Postal Service confirming the date of  
688 mailing; or

689 2. The person who served the notice maintains ~~electronic~~  
690 tracking records approved or generated by the United States  
691 Postal Service containing the postal tracking number, ~~the name~~  
692 ~~and address of the person served,~~ and verification of the date  
693 of receipt by the United States Postal Service.

694 (3) (a) Notwithstanding subsection (1), service of a  
695 document under an instrument pursuant to this section is  
696 effective on the date of mailing or shipping, and the



595-04032-23

2023624c2

697 requirements for service under this section have been satisfied,  
698 ~~the instrument~~ if the document meets both of the following  
699 requirements ~~it~~:

700 1. It is sent to the last address shown in the notice of  
701 commencement or any amendment thereto or, in the absence of a  
702 notice of commencement, to the last address shown in the  
703 building permit application, or to the last known address of the  
704 person to be served. ~~;~~ ~~and~~

705 2. It is returned as being "refused," "moved, not  
706 forwardable," or "unclaimed," or is otherwise not delivered or  
707 deliverable through no fault of the person serving the document  
708 ~~item~~.

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

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

721 Section 10. Section 713.21, Florida Statutes, is amended to  
722 read:

723 713.21 Discharge of lien.—A lien properly perfected under  
724 this chapter may be discharged, or released in whole or in part,  
725 by any of the following methods:

595-04032-23

2023624c2

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

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

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

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

754 (5) By recording in the clerk's office the original or a

595-04032-23

2023624c2

755 certified copy of a judgment or decree of a court of competent  
756 jurisdiction showing a final determination of the action.

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

759 713.22 Duration of lien.—

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

765

766 NOTICE OF CONTEST OF LIEN

767

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

769

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

776

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

778

779 The lien of any lienor upon whom such notice is served and who  
780 fails to institute a suit to enforce his or her lien within 60  
781 days after service of such notice is ~~shall be~~ extinguished  
782 automatically. The clerk shall serve, in accordance with s.  
783 713.18, a copy of the notice of contest on ~~to~~ the lienor ~~lien~~

595-04032-23

2023624c2

784 ~~claimant~~ at the address shown in the claim of lien or most  
785 recent amendment thereto and shall certify to such service and  
786 the date of service on the face of the notice and record the  
787 notice. After the clerk records the notice with the certificate  
788 of service, the clerk shall serve, in accordance with s. 713.18,  
789 a copy of such recorded notice on the lienor and the owner or  
790 the owner's attorney. The clerk of the court shall charge fees  
791 for such services as provided by law.

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

794 713.23 Payment bond.—

795 (1)

796 (d) In addition, a lienor who has not received payment for  
797 furnishing his or her labor, services, or materials must, as a  
798 condition precedent to recovery under the bond, serve a written  
799 notice of nonpayment on ~~to~~ the contractor and a copy of the  
800 notice of nonpayment on the surety. The notice of nonpayment  
801 must be under oath and served during the progress of the work or  
802 thereafter, but may not be served later than 90 days after the  
803 final furnishing of labor, services, or materials by the lienor,  
804 or, with respect to rental equipment, later than 90 days after  
805 the date the rental equipment was on the ~~job~~ site of the  
806 improvement and available for use. A notice of nonpayment that  
807 includes sums for retainage must specify the portion of the  
808 amount claimed for retainage. The required notice satisfies this  
809 condition precedent with respect to the payment described in the  
810 notice of nonpayment, including unpaid finance charges due under  
811 the lienor's contract, and with respect to any other payments  
812 which become due to the lienor after the date of the notice of

595-04032-23

2023624c2

813 nonpayment. The time period for serving a notice of nonpayment  
814 is ~~shall be~~ measured from the last day of furnishing labor,  
815 services, or materials by the lienor and may not be measured by  
816 other standards, such as the issuance of a certificate of  
817 occupancy or the issuance of a certificate of substantial  
818 completion. The failure of a lienor to receive retainage sums  
819 not in excess of 10 percent of the value of labor, services, or  
820 materials furnished by the lienor is not considered a nonpayment  
821 requiring the service of the notice provided under this  
822 paragraph. If the payment bond is not recorded before  
823 commencement of construction, the time period for the lienor to  
824 serve a notice of nonpayment may, at the option of the lienor,  
825 be calculated from the date specified in this section or the  
826 date the lienor is served a copy of the bond. However, the  
827 limitation period for commencement of an action on the payment  
828 bond as established in paragraph (e) may not be expanded. The  
829 negligent inclusion or omission of any information in the notice  
830 of nonpayment that has not prejudiced the contractor or surety  
831 does not constitute a default that operates to defeat an  
832 otherwise valid bond claim. A lienor who serves a fraudulent  
833 notice of nonpayment forfeits his or her rights under the bond.  
834 A notice of nonpayment is fraudulent if the lienor has willfully  
835 exaggerated the amount unpaid, willfully included a claim for  
836 work not performed or materials not furnished for the subject  
837 improvement, or prepared the notice with such willful and gross  
838 negligence as to amount to a willful exaggeration. However, a  
839 minor mistake or error in a notice of nonpayment, or a good  
840 faith dispute as to the amount unpaid, does not constitute a  
841 willful exaggeration that operates to defeat an otherwise valid

595-04032-23

2023624c2

842 claim against the bond. The service of a fraudulent notice of  
843 nonpayment is a complete defense to the lienor's claim against  
844 the bond. The notice under this paragraph must include the  
845 following information, current as of the date of the notice, and  
846 must be in substantially the following form:

847

848 NOTICE OF NONPAYMENT

849

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

851

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

853

854 The undersigned lienor notifies you that:

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

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

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

867

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

595-04032-23

2023624c2

871  
872  
873  
874  
875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899

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

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

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.....

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

595-04032-23

2023624c2

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

909 NOTICE OF CONTEST OF CLAIM

910 AGAINST PAYMENT BOND

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

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

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

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

919

920 The claim of any lienor upon whom the notice is served and who  
 921 fails to institute a suit to enforce his or her claim against  
 922 the payment bond within 60 days after service of the notice is  
 923 ~~shall be~~ extinguished automatically. The contractor or the  
 924 contractor's attorney shall serve, in accordance with s. 713.18,  
 925 a copy of the notice of contest to the lienor at the address  
 926 shown in the notice of nonpayment or most recent amendment  
 927 thereto and shall certify to such service on the face of the  
 928 notice and record the notice. After the clerk records the notice



595-04032-23

2023624c2

929 with the certificate of service, the clerk shall serve, in  
930 accordance with s. 713.18, a copy of such recorded notice on the  
931 lienor and the contractor or the contractor's attorney. The  
932 clerk of the court shall charge fees for such services as  
933 provided by law.

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

936 713.24 Transfer of liens to security.-

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

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

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

944  
945 ~~either to be~~ in an amount equal to the amount demanded in such  
946 claim of lien, plus interest thereon at the legal rate for 3  
947 years, plus \$5,000 ~~\$1,000~~ or 25 percent of the amount demanded  
948 in the claim of lien, whichever is greater, to apply on any  
949 attorney ~~attorney's~~ fees and court costs that may be taxed in  
950 any proceeding to enforce said lien. Such deposit or bond must  
951 ~~shall~~ be conditioned to pay any judgment or decree which may be  
952 rendered for the satisfaction of the lien for which such claim  
953 of lien was recorded. Upon making such deposit or filing such  
954 bond, the clerk shall make and record a certificate, which must  
955 include a copy of the deposit or bond used to transfer, showing  
956 the transfer of the lien from the real property to the security  
957 and shall mail a copy thereof together with a copy of the

595-04032-23

2023624c2

958 deposit or bond used to transfer by registered or certified mail  
959 to the lienor named in the claim of lien so transferred, at the  
960 address stated therein. Upon filing the certificate of transfer,  
961 the real property is ~~shall thereupon be~~ released from the lien  
962 claimed, and such lien is ~~shall be~~ transferred to said security.  
963 In the absence of allegations of privity between the lienor and  
964 the owner, and subject to any order of the court increasing the  
965 amount required for the lien transfer deposit or bond, no other  
966 judgment or decree to pay money may be entered by the court  
967 against the owner. The clerk is ~~shall be~~ entitled to a service  
968 charge for making and serving the certificate, in the amount of  
969 up to \$20, from which the clerk shall remit \$5 to the Department  
970 of Revenue for deposit into the General Revenue Fund. If the  
971 transaction involves the transfer of multiple liens, the clerk  
972 shall charge an additional service charge of up to \$10 for each  
973 additional lien ~~shall be charged~~, from which the clerk shall  
974 remit \$2.50 to the Department of Revenue for deposit into the  
975 General Revenue Fund. For recording the certificate and  
976 approving the bond, the clerk shall receive her or his usual  
977 statutory service charges as prescribed in s. 28.24. Any number  
978 of liens may be transferred to one such security.

979 (3) Any party having an interest in such security or the  
980 property from which the lien was transferred may at any time,  
981 and any number of times, file a complaint in chancery in the  
982 circuit court of the county where such security is deposited, or  
983 file a motion in a pending action to enforce a lien, for an  
984 order to require additional security, reduction of security,  
985 change or substitution of sureties, payment of discharge  
986 thereof, or any other matter affecting said security. If the

595-04032-23

2023624c2

987 court finds that the amount of the deposit or bond in excess of  
988 the amount claimed in the claim of lien is insufficient to pay  
989 the lienor's attorney ~~attorney's~~ fees and court costs incurred  
990 in the action to enforce the lien, the court must increase the  
991 amount of the cash deposit or lien transfer bond. ~~Nothing in~~  
992 This section may not ~~shall~~ be construed to vest exclusive  
993 jurisdiction in the circuit courts over transfer bond claims for  
994 nonpayment of an amount within the monetary jurisdiction of the  
995 county courts.

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

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

999 713.29 Attorney ~~Attorney's~~ fees.—In any action brought to  
1000 enforce a lien, including a lien that has been transferred to  
1001 security, or to enforce a claim against a bond under this part,  
1002 the prevailing party is entitled to recover a reasonable fee for  
1003 the services of her or his attorney for trial and appeal or for  
1004 arbitration, in an amount to be determined by the court, which  
1005 fee must be taxed as part of the prevailing party's costs, as  
1006 allowed in equitable actions.

1007 Section 16. This act shall take effect October 1, 2023.