

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Regulatory Reform
 2 Subcommittee

3 Representative Overdorf offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7

8 Section 1. Subsections (8) through (11) of section 255.05,
 9 Florida Statutes, are renumbered as subsections (7) through
 10 (10), respectively, paragraph (a) of subsection (2) and present
 11 subsections (6) and (7) are amended, and a new subsection (11)
 12 is added to that section, to read:

13 255.05 Bond of contractor constructing public buildings;
 14 form; action by claimants.-

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

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

21

22 NOTICE OF CONTEST OF CLAIM

23 AGAINST PAYMENT BOND

24

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

26

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

32

33 DATED on,

34

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

36

37 The claim of a claimant upon whom such notice is served and who
38 fails to institute a suit to enforce his or her claim against
39 the payment bond within 60 days after service of such notice is
40 extinguished automatically. The contractor or the contractor's
41 attorney shall serve a copy of the notice of contest on ~~to~~ the

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42 claimant at the address shown in the notice of nonpayment or
43 most recent amendment thereto and shall certify to such service
44 on the face of the notice and record the notice.

45 2. A claimant, except a laborer, who is not in privity
46 with the contractor shall, before commencing or not later than
47 45 days after commencing to furnish labor, services, or
48 materials for the prosecution of the work, serve the contractor
49 with a written notice that he or she intends to look to the bond
50 for protection. If the payment bond is not recorded before the
51 commencement of work or before the recommencement of work after
52 a default or abandonment, if applicable, as required by s.
53 255.05(1), then the claimant may serve the contractor with such
54 written notice up to 45 days after the date that the claimant is
55 served with a copy of the bond. A claimant who is not in privity
56 with the contractor and who has not received payment for
57 furnishing his or her labor, services, or materials shall serve
58 a written notice of nonpayment on the contractor and a copy of
59 the notice on the surety. The notice of nonpayment must ~~shall~~ be
60 under oath and served during the progress of the work or
61 thereafter but may not be served earlier than 45 days after the
62 first furnishing of labor, services, or materials by the
63 claimant or later than 90 days after the final furnishing of the
64 labor, services, or materials by the claimant or, with respect
65 to rental equipment, later than 90 days after the date that the
66 rental equipment was last on the ~~job~~ site of the improvement

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67 available for use. Any notice of nonpayment served by a claimant
68 who is not in privity with the contractor which includes sums
69 for retainage must specify the portion of the amount claimed for
70 retainage. An action for the labor, services, or materials may
71 not be instituted against the contractor or the surety unless
72 the notice to the contractor and notice of nonpayment have been
73 served, if required by this section. Notices required or
74 permitted under this section must be served in accordance with
75 s. 713.18. A claimant may not waive in advance his or her right
76 to bring an action under the bond against the surety. In any
77 action brought to enforce a claim against a payment bond under
78 this section, the prevailing party is entitled to recover a
79 reasonable fee for the services of his or her attorney for trial
80 and appeal or for arbitration, in an amount to be determined by
81 the court or arbitrator, which fee must be taxed as part of the
82 prevailing party's costs, as allowed in equitable actions. The
83 time periods for service of a notice of nonpayment or for
84 bringing an action against a contractor or a surety are ~~shall be~~
85 measured from the last day of furnishing labor, services, or
86 materials by the claimant and may not be measured by other
87 standards, such as the issuance of a certificate of occupancy or
88 the issuance of a certificate of substantial completion. The
89 negligent inclusion or omission of any information in the notice
90 of nonpayment that has not prejudiced the contractor or surety
91 does not constitute a default that operates to defeat an

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92 otherwise valid bond claim. A claimant who serves a fraudulent
93 notice of nonpayment forfeits his or her rights under the bond.
94 A notice of nonpayment is fraudulent if the claimant has
95 willfully exaggerated the amount unpaid, willfully included a
96 claim for work not performed or materials not furnished for the
97 subject improvement, or prepared the notice with such willful
98 and gross negligence as to amount to a willful exaggeration.
99 However, a minor mistake or error in a notice of nonpayment, or
100 a good faith dispute as to the amount unpaid, does not
101 constitute a willful exaggeration that operates to defeat an
102 otherwise valid claim against the bond. The service of a
103 fraudulent notice of nonpayment is a complete defense to the
104 claimant's claim against the bond. The notice of nonpayment
105 under this subparagraph must include the following information,
106 current as of the date of the notice, and must be in
107 substantially the following form:

108
109 NOTICE OF NONPAYMENT

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

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

114
115 The undersigned claimant notifies you that:

116 1. Claimant has furnished ... (describe labor, services, or

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117 materials)... for the improvement of the real property
118 identified as ...(property description).... The corresponding
119 amount unpaid to date is \$...., of which \$.... is unpaid
120 retainage.

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

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

128
129 I declare that I have read the foregoing Notice of Nonpayment
130 and that the facts stated in it are true to the best of my
131 knowledge and belief.

132
133 DATED on,

134
135 ... (signature and address of claimant) ...

136
137 STATE OF FLORIDA
138 COUNTY OF

139
140 The foregoing instrument was sworn to (or affirmed) and
141 subscribed before me by means of physical presence or sworn to

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142 (or affirmed) by online notarization this day of
143 ...(year)...., by ...(name of signatory)....

144
145 ...(Signature of Notary Public - State of Florida)...
146 ...(Print, Type, or Stamp Commissioned Name of Notary
147 Public)...

148
149 Personally Known OR Produced Identification

150
151 Type of Identification Produced

152 (6) All payment bond forms used by a public owner and all
153 payment bonds executed pursuant to this section by a surety
154 shall make reference to this section by number, shall contain
155 reference to the notice and time limitation provisions in
156 subsections (2) and (9)~~(10)~~, and shall comply with the
157 requirements of paragraph (1)(a).

158 (7) In lieu of the bond required by this section, a
159 contractor may file with the state, county, city, or other
160 political authority an alternative form of security in the form
161 of cash, a money order, a certified check, or a cashier's check,
162 ~~an irrevocable letter of credit, or a security of a type listed~~
163 ~~in part II of chapter 625~~. Any such alternative form of security
164 shall be for the same purpose and be subject to the same
165 conditions as those applicable to the bond required by this
166 section. The determination of the value of an alternative form

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167 of security shall be made by the appropriate state, county,
168 city, or other political subdivision.

169 (11) Unless otherwise provided in this section, service of
170 any document must be made in accordance with s. 713.18.

171 Section 2. Paragraph (c) of subsection (1) of section
172 337.18, Florida Statutes, is amended, and subsection (6) is
173 added to that section, to read:

174 337.18 Surety bonds for construction or maintenance
175 contracts; requirement with respect to contract award; bond
176 requirements; defaults; damage assessments.—

177 (1)

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

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192 services, or materials by the claimant or, with respect to
193 rental equipment, not later than 90 days after the date that the
194 rental equipment was last on the ~~job~~ site of the improvement
195 available for use. An action by a claimant, except a laborer,
196 who is not in privity with the contractor for the labor,
197 materials, or supplies may not be instituted against the
198 contractor or the surety unless both notices have been given.
199 Written notices required or permitted under this section must
200 may be served in accordance with any manner provided in s.
201 713.18.

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

204 Section 3. Subsections (13) through (27) and subsections
205 (28) and (29) of section 713.01, Florida Statutes, are
206 renumbered as subsections (14) through (28) and subsections (30)
207 and (31), respectively, subsections (4), (8), and (12) of that
208 section are amended, and new subsections (13) and (29) are added
209 to that section, to read:

210 713.01 Definitions.—As used in this part, the term:

211 (4) "Clerk's office" means the office of the clerk of the
212 circuit court of the county, or another office serving as the
213 county recorder as provided by law, in which the real property
214 is located.

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

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217 | property for improving it, or who takes over from a contractor
218 | as so defined the entire remaining work under such contract. The
219 | term "contractor" includes an architect, landscape architect, or
220 | engineer who improves real property pursuant to a design-build
221 | contract authorized by s. 489.103(16). The term also includes a
222 | licensed general contractor or building contractor, as those
223 | terms are defined in s. 489.105(3)(a) and (b), respectively, who
224 | provides construction management services, which include
225 | scheduling and coordinating both preconstruction and
226 | construction phases for the construction project or who provides
227 | program management services, which include schedule control,
228 | cost control, and coordination in providing or procuring
229 | planning, design, and construction.

230 | (12) "Final furnishing" means the last date that the
231 | lienor furnishes labor, services, or materials. Such date may
232 | not be measured by other standards, such as the issuance of a
233 | certificate of occupancy or the issuance of a certificate of
234 | final completion, and does not include the correction of
235 | deficiencies in the lienor's previously performed work or
236 | materials supplied. With respect to rental equipment, the term
237 | means the date that the rental equipment was last on the ~~job~~
238 | site of the improvement and available for use. With respect to
239 | specially fabricated materials, the term means the date that the
240 | last portion of the specially fabricated materials is delivered
241 | to the site of the improvement, or if any portion of the

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242 specially fabricated materials is not delivered to the site of
243 the improvement by no fault of the lienor, the term means 90
244 days after the date the lienor completes the fabrication or 90
245 days before the expiration of the notice of commencement,
246 whichever is earlier.

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

251 (29) "Specially fabricated materials" means materials
252 designed and fabricated for use in a particular improvement that
253 are not generally suited for or readily adaptable for use in a
254 similar improvement.

255 Section 4. Section 713.011, Florida Statutes, is created
256 to read:

257 713.011 Computation of time.—

258 (1) In computing any time period for recording a document
259 or filing an action under this part, if the last day of the time
260 period is a Saturday, Sunday, legal holiday, or any day observed
261 as a holiday by the clerk's office, the time period is extended
262 to the end of the next business day. In computing any other time
263 period under this part, if the last day of the time period is a
264 Saturday, Sunday, or legal holiday, the time period is extended
265 to the end of the next business day.

266 (2) If closure of a clerk's office is directed by a

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267 federal, state, or local governmental order in response to a
268 state of emergency declared under chapter 252, the time periods
269 for recording a document or filing an action with that clerk's
270 office under this part are tolled until the first business day
271 after the clerk's office reopens. For purposes of this
272 subsection, a clerk's office is considered open if it is
273 recording or filing documents submitted electronically.

274 Section 5. Paragraph (b) of subsection (2) of section
275 713.10, Florida Statutes, is amended, and subsection (4) is
276 added to that section, to read:

277 713.10 Extent of liens.—

278 (2)

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

281 1. The lease, or a short form or a memorandum of the lease
282 that contains the specific language in the lease prohibiting
283 such liability, is recorded in the official records of the
284 county where the premises are located before the recording of a
285 notice of commencement for improvements to the premises and the
286 terms of the lease expressly prohibit such liability; or

287 2. The terms of the lease expressly prohibit such
288 liability, and a notice advising that leases for the rental of
289 premises on a parcel of land prohibit such liability has been
290 recorded in the official records of the county in which the
291 parcel of land is located before the recording of a notice of

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292 commencement for improvements to the premises, and the notice
293 includes the following:

294 a. The name of the lessor.

295 b. The legal description of the parcel of land to which
296 the notice applies.

297 c. The specific language contained in the various leases
298 prohibiting such liability.

299 d. A statement that all or a majority of the leases
300 entered into for premises on the parcel of land expressly
301 prohibit such liability.

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

304
305 A notice that is consistent with subparagraph 2. effectively
306 prohibits liens for improvements made by a lessee even if other
307 leases for premises on the parcel do not expressly prohibit
308 liens or if provisions of each lease restricting the application
309 of liens are not identical.

310 (4) The interest of the lessor is not subject to liens for
311 improvements made by the lessee when the lessee is a mobile home
312 owner who is leasing a mobile home lot in a mobile home park
313 from the lessor.

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

316 713.13 Notice of commencement.-

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317 (1) (a) Except for an improvement that is exempt under
318 ~~pursuant to~~ s. 713.02(5), an owner or the owner's authorized
319 agent before actually commencing to improve any real property,
320 or recommencing completion of any improvement after default or
321 abandonment, whether or not a project has a payment bond
322 complying with s. 713.23, shall record a notice of commencement
323 in the clerk's office and ~~forthwith~~ post either a certified copy
324 thereof or a notarized statement that the notice of commencement
325 has been filed for recording along with a copy thereof. The
326 notice of commencement shall contain all of the following
327 information:

328 1. A description sufficient for identification of the real
329 property to be improved. The description should include the
330 legal description of the property and also should include the
331 street address and tax folio number of the property if available
332 or, if there is no street address available, such additional
333 information as will describe the physical location of the real
334 property to be improved.

335 2. A general description of the improvement.

336 3. The name and address of the owner, the owner's interest
337 in the site of the improvement, and the name and address of the
338 fee simple titleholder, if other than such owner. A lessee who
339 contracts for the improvements is an owner as defined under s.
340 713.01 ~~s. 713.01(23)~~ and must be listed as the owner together
341 with a statement that the ownership interest is a leasehold

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342 interest.

343 4. The name and address of the contractor.

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

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

348 7. The name and address within the state of a person other
349 than himself or herself who may be designated by the owner as
350 the person upon whom notices or other documents may be served
351 under this part; and service upon the person so designated
352 constitutes service upon the owner.

353 (d) A notice of commencement must be in substantially the
354 following form:

355

356 Permit No.....

Tax Folio No.....

357 NOTICE OF COMMENCEMENT

358 State of....

359 County of....

360

361 The undersigned hereby gives notice that improvement will be
362 made to certain real property, and in accordance with Chapter
363 713, Florida Statutes, the following information is provided in
364 this Notice of Commencement.

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

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- 367 2. General description of improvement:.....
- 368 3. Owner information or Lessee information if the Lessee
- 369 contracted for the improvement:
- 370 a. Name and address:.....
- 371 b. Interest in property:.....
- 372 c. Name and address of fee simple titleholder (if
- 373 different from Owner listed above):.....
- 374 4.a. Contractor: ...(name and address)....
- 375 b. Contractor's phone number:.....
- 376 5. Surety (if applicable, a copy of the payment bond is
- 377 attached):
- 378 a. Name and address:.....
- 379 b. Phone number:.....
- 380 c. Amount of bond: \$.....
- 381 6.a. Lender: ...(name and address)....
- 382 b. Lender's phone number:.....
- 383 7. Persons within the State of Florida designated by Owner
- 384 upon whom notices or other documents may be served as provided
- 385 by Section 713.13(1)(a)7., Florida Statutes:
- 386 a. Name and address:.....
- 387 b. Phone numbers of designated persons:.....
- 388 8.a. In addition to himself or herself, Owner designates
- 389 of to receive a copy of the Lienor's
- 390 Notice as provided in Section 713.13(1)(b), Florida Statutes.
- 391 b. Phone number of person or entity designated by

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392 owner:.....

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

396

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

406

407 ...(Signature of Owner or Lessee, or Owner's or Lessee's
408 Authorized Officer/Director/Partner/Manager)...

409

410 ...(Signatory's Title/Office)...

411

412 The foregoing instrument was acknowledged before me by means of
413 physical presence or acknowledged before me by means of
414 online notarization, this day of, ...(year)..., by
415 ...(name of person)... as ...(type of authority, . . . e.g.
416 officer, trustee, attorney in fact)... for ...(name of party on

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417 behalf of whom instrument was executed)....
418
419 ...(Signature of Notary Public - State of Florida)...
420
421 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
422
423 Personally Known OR Produced Identification
424
425 Type of Identification Produced.....
426 Section 7. Subsections (1), (3), and (4) of section
427 713.132, Florida Statutes, are amended to read:
428 713.132 Notice of termination.—
429 (1) An owner may terminate the period of effectiveness of
430 a notice of commencement by executing, swearing to, and
431 recording a notice of termination that contains all of the
432 following:
433 (a) The same information as the notice of commencement. ~~†~~
434 (b) The official records' ~~recording office document book~~
435 ~~and page~~ reference numbers and recording date affixed by the
436 recording office on ~~of~~ the recorded notice of commencement. ~~†~~
437 (c) A statement of the date as of which the notice of
438 commencement is terminated, which date may not be earlier than
439 30 days after the notice of termination is recorded. ~~†~~
440 (d) A statement specifying that the notice applies to all
441 the real property subject to the notice of commencement or

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442 specifying the portion of such real property to which it
443 applies.†

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

446 (f) A statement that the owner has, before recording the
447 notice of termination, served a copy of the notice of
448 termination ~~on the contractor and~~ on each lienor who has a
449 direct contract with the owner or who has timely served a notice
450 to owner, and a statement that the owner will serve a copy of
451 the notice of termination on each lienor who timely serves a
452 notice to owner after the notice of termination has been
453 recorded. The owner is not required to serve a copy of the
454 notice of termination on any lienor who has executed a waiver
455 and release of lien upon final payment in accordance with s.
456 713.20.

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

461 (4) If an owner or a contractor, by fraud or collusion,
462 knowingly makes any fraudulent statement or affidavit in a
463 notice of termination or any accompanying affidavit, the owner
464 and the contractor, or either of them, ~~as the case may be,~~ is
465 liable to any lienor who suffers damages as a result of the
466 filing of the fraudulent notice of termination.† and any such

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467 | lienor has a right of action for damages ~~occasioned thereby.~~
468 | (5)-(4) A notice of termination must be served before
469 | recording on each lienor who has a direct contract with the
470 | owner and on each lienor who has timely and properly served a
471 | notice to owner in accordance with this part before the
472 | recording of the notice of termination. A notice of termination
473 | must be recorded in the official records of the county in which
474 | the improvement is located. If properly served before recording
475 | in accordance with this subsection, the notice of termination
476 | terminates the period of effectiveness of the notice of
477 | commencement 30 days after the notice of termination is recorded
478 | in the official records ~~is effective to terminate the notice of~~
479 | ~~commencement at the later of 30 days after recording of the~~
480 | ~~notice of termination~~ or a later the date stated in the notice
481 | of termination as the date on which the notice of commencement
482 | is terminated. However, if a lienor who began work under the
483 | notice of commencement before its termination lacks a direct
484 | contract with the owner and timely serves his or her notice to
485 | owner after the notice of termination has been recorded, the
486 | owner must serve a copy of the notice of termination upon such
487 | lienor, and the termination of the notice of commencement as to
488 | that lienor is effective 30 days after service of the notice of
489 | termination ~~if the notice of termination has been served~~
490 | ~~pursuant to paragraph (1) (f) on the contractor and on each~~
491 | ~~lienor who has a direct contract with the owner or who has~~

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492 ~~served a notice to owner.~~

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

495 713.135 Notice of commencement and applicability of lien.—

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

498 (a) Print on the face of each permit card in no less than
499 14-point, capitalized, boldfaced type: "WARNING TO OWNER: YOUR
500 FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR
501 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF
502 COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE
503 THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT
504 WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF
505 COMMENCEMENT."

506 (b) Provide the applicant and the owner of the real
507 property upon which improvements are to be constructed with a
508 printed statement stating that the right, title, and interest of
509 the person who has contracted for the improvement may be subject
510 to attachment under the Construction Lien Law. The Department of
511 Business and Professional Regulation shall furnish, for
512 distribution, the statement described in this paragraph, and the
513 statement must be a summary of the Construction Lien Law and
514 must include an explanation of the provisions of the
515 Construction Lien Law relating to the recording, and the posting
516 of copies, of notices of commencement and a statement

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517 encouraging the owner to record a notice of commencement and
518 post a copy of the notice of commencement in accordance with s.
519 713.13. The statement must also contain an explanation of the
520 owner's rights if a lienor fails to furnish the owner with a
521 notice as provided in s. 713.06(2) and an explanation of the
522 owner's rights as provided in s. 713.22. The authority that
523 issues the building permit must obtain from the Department of
524 Business and Professional Regulation the statement required by
525 this paragraph and must mail, deliver by electronic mail or
526 other electronic format or facsimile, or personally deliver that
527 statement to the owner or, in a case in which the owner is
528 required to personally appear to obtain the permit, provide that
529 statement to any owner making improvements to real property
530 consisting of a single or multiple family dwelling up to and
531 including four units. However, the failure by the authorities to
532 provide the summary does not subject the issuing authority to
533 liability.

534 (c) In addition to providing the owner with the statement
535 as required by paragraph (b), inform each applicant who is not
536 the person whose right, title, and interest is subject to
537 attachment that, as a condition to the issuance of a building
538 permit, the applicant must promise in good faith that the
539 statement will be delivered to the person whose property is
540 subject to attachment.

541 (d) Furnish to the applicant two or more copies of a form

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542 of notice of commencement conforming with s. 713.13.

543 (e) Require ~~If the direct contract is greater than \$2,500,~~
544 the applicant ~~to shall~~ file with the issuing authority before
545 ~~prior to~~ the first inspection ~~either a certified~~ copy of the
546 ~~recorded~~ notice of commencement if the direct contract is
547 greater than \$2,500. For purposes of this paragraph, the term
548 "copy of the notice of commencement" means a certified copy of
549 the recorded notice of commencement, or a notarized statement
550 that the notice of commencement has been filed for recording,
551 along with a copy thereof, or the clerk's office official
552 records identifying information that includes the instrument
553 number for the notice of commencement or the number and page of
554 book where the notice of commencement is recorded, as identified
555 by the clerk.

556 1. In the absence of the filing of a ~~certified~~ copy of the
557 ~~recorded~~ notice of commencement, the issuing authority or a
558 private provider performing inspection services may not perform
559 or approve subsequent inspections until the applicant files by
560 mail, facsimile, hand delivery, or any other means such
561 ~~certified~~ copy with the issuing authority.

562 2. The ~~certified~~ copy of the notice of commencement must
563 contain the name and address of the owner, the name and address
564 of the contractor, and the location or address of the property
565 being improved. The issuing authority shall verify that the name
566 and address of the owner, the name of the contractor, and the

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567 location or address of the property being improved which is
568 contained in the ~~certified~~ copy of the notice of commencement is
569 consistent with the information in the building permit
570 application.

571 3. The issuing authority shall provide the recording
572 information on the ~~certified~~ copy of the ~~recorded~~ notice of
573 commencement to any person upon request.

574 4. This subsection does not require the recording of a
575 notice of commencement before ~~prior to~~ the issuance of a
576 building permit. If a local government requires a separate
577 permit or inspection for installation of temporary electrical
578 service or other temporary utility service, land clearing, or
579 other preliminary site work, such permits may be issued and such
580 inspections may be conducted without providing the issuing
581 authority with a ~~certified~~ copy of the ~~a recorded~~ notice of
582 commencement ~~or a notarized statement regarding a recorded~~
583 ~~notice of commencement. This subsection does not apply to a~~
584 ~~direct contract to repair or replace an existing heating or air-~~
585 ~~conditioning system in an amount less than \$7,500.~~

586 (f)-(e) Not require that a notice of commencement be
587 recorded as a condition of the application for, or processing or
588 issuance of, a building permit. However, this paragraph does not
589 modify or waive the inspection requirements set forth in this
590 subsection.

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592 This subsection does not apply to a direct contract to repair or
593 replace an existing heating or air-conditioning system in an
594 amount less than \$7,500.

595 (3) An issuing authority under subsection (1) is not
596 liable in any civil action for the failure to verify that a
597 certified copy of the recorded notice of commencement, a
598 notarized statement that the notice of commencement has been
599 filed for recording along with a copy thereof, or the clerk's
600 office official records identifying information that includes
601 the instrument number for the notice of commencement or the
602 number and page of book where the notice of commencement is
603 recorded, as identified by the clerk, has been filed in
604 accordance with this section.

605 Section 9. Section 713.18, Florida Statutes, is amended to
606 read:

607 713.18 Manner of serving documents ~~notices and other~~
608 ~~instruments.~~

609 (1) Unless otherwise specifically provided by law, service
610 of any document ~~notices, claims of lien, affidavits,~~
611 ~~assignments, and other instruments~~ permitted or required under
612 this part, s. 255.05, or s. 337.18, or copies thereof when so
613 permitted or required, ~~unless otherwise specifically provided in~~
614 ~~this part,~~ must be made by one of the following methods:

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

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617 officer, director, managing agent, or business agent; or, if a
618 limited liability company, to a member or manager.

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

623 (c) By posting on the site of the improvement if service
624 as provided by paragraph (a) or paragraph (b) cannot be
625 accomplished.

626 (2) Notwithstanding subsection (1), service of a notice to
627 owner or a preliminary notice to contractor under this part, s.
628 255.05, or s. 337.18, ~~or s. 713.23~~ is effective as of the date
629 of mailing and the requirements for service under this section
630 have been satisfied if all of the following requirements have
631 been met:

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

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

638 (c)1. The person who served the notice maintains a
639 registered or certified mail log that shows the registered or
640 certified mail number issued by the United States Postal
641 Service, the name and address of the person served, and the date

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642 stamp of the United States Postal Service confirming the date of
643 mailing; or

644 2. The person who served the notice maintains ~~electronic~~
645 tracking records approved or generated by the United States
646 Postal Service containing the postal tracking number, ~~the name~~
647 ~~and address of the person served,~~ and verification of the date
648 of receipt by the United States Postal Service.

649 (3) (a) Notwithstanding subsection (1), service of a
650 document under an instrument pursuant to this section is
651 effective on the date of mailing or shipping, and the
652 requirements for service under this section have been satisfied,
653 ~~the instrument~~ if the document ~~it~~:

654 1. Is sent to the last address shown in the notice of
655 commencement or any amendment thereto or, in the absence of a
656 notice of commencement, to the last address shown in the
657 building permit application, or to the last known address of the
658 person to be served. ~~;~~ and

659 2. Is returned as being "refused," "moved, not
660 forwardable," or "unclaimed," or is otherwise not delivered or
661 deliverable through no fault of the person serving the document
662 ~~item.~~

663 (b) If the address shown in the notice of commencement or
664 any amendment thereto ~~to the notice of commencement,~~ or, in the
665 absence of a notice of commencement, in the building permit
666 application, is incomplete for purposes of mailing or delivery,

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667 the person serving the document ~~item~~ may complete the address
668 and properly format it according to United States Postal Service
669 addressing standards using information obtained from the
670 property appraiser or another public record without affecting
671 the validity of service under this section.

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

675 Section 10. Section 713.21, Florida Statutes, is amended
676 to read:

677 713.21 Discharge of lien.—A lien properly perfected under
678 this chapter may be discharged, or released in whole or in part,
679 by any of the following methods:

680 (1) By entering satisfaction of the lien upon the margin
681 of the record thereof in the clerk's office when not otherwise
682 prohibited by law. This satisfaction shall be signed by the
683 lienor, the lienor's agent or attorney and attested by said
684 clerk. Any person who executes a claim of lien has ~~shall have~~
685 authority to execute a satisfaction in the absence of actual
686 notice of lack of authority to any person relying on the same.

687 (2) By the satisfaction or release of the lienor, duly
688 acknowledged and recorded in the clerk's office. The
689 satisfaction or release must include the lienor's notarized
690 signature and set forth the official records' reference numbers
691 and recording date affixed by the recording office on the

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692 subject lien. Any person who executes a claim of lien ~~has shall~~
693 ~~have~~ authority to execute a satisfaction or release in the
694 absence of actual notice of lack of authority to any person
695 relying on the same.

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

698 (4) By an order of the circuit court of the county where
699 the property is located, as provided in this subsection. Upon
700 filing a complaint therefor by any interested party the clerk
701 shall issue a summons to the lienor to show cause within 20 days
702 why his or her lien should not be enforced by action or vacated
703 and canceled of record. Upon failure of the lienor to show cause
704 why his or her lien should not be enforced or the lienor's
705 failure to commence such action before the return date of the
706 summons the court shall forthwith order cancellation of the
707 lien.

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

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

713 713.22 Duration of lien.—

714 (2) An owner or the owner's attorney may elect to shorten
715 the time prescribed in subsection (1) within which to commence
716 an action to enforce any claim of lien or claim against a bond

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717 or other security under s. 713.23 or s. 713.24 by recording in
718 the clerk's office a notice in substantially the following form:

719 NOTICE OF CONTEST OF LIEN

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

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

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

728 The lien of any lienor upon whom such notice is served and who
729 fails to institute a suit to enforce his or her lien within 60
730 days after service of such notice shall be extinguished
731 automatically. The clerk shall serve, in accordance with s.
732 713.18, a copy of the notice of contest to the lien claimant at
733 the address shown in the claim of lien or most recent amendment
734 thereto and shall certify to such service and the date of
735 service on the face of the notice and record the notice. After
736 the clerk records the notice with the certificate of service,
737 the clerk shall serve a copy of such notice to the lienor and to
738 the owner or the owner's attorney, in accordance with s. 713.18.

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

741 713.23 Payment bond.-

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742 (1)

743 (d) In addition, a lienor who has not received payment for
744 furnishing his or her labor, services, or materials must, as a
745 condition precedent to recovery under the bond, serve a written
746 notice of nonpayment ~~on to~~ the contractor and a copy of the
747 notice on the surety. The notice must be under oath and served
748 during the progress of the work or thereafter, but may not be
749 served later than 90 days after the final furnishing of labor,
750 services, or materials by the lienor, or, with respect to rental
751 equipment, later than 90 days after the date the rental
752 equipment was on the ~~job~~ site of the improvement and available
753 for use. A notice of nonpayment that includes sums for retainage
754 must specify the portion of the amount claimed for retainage.
755 The required notice satisfies this condition precedent with
756 respect to the payment described in the notice of nonpayment,
757 including unpaid finance charges due under the lienor's
758 contract, and with respect to any other payments which become
759 due to the lienor after the date of the notice of nonpayment.
760 The time period for serving a notice of nonpayment ~~is shall be~~
761 measured from the last day of furnishing labor, services, or
762 materials by the lienor and may not be measured by other
763 standards, such as the issuance of a certificate of occupancy or
764 the issuance of a certificate of substantial completion. The
765 failure of a lienor to receive retainage sums not in excess of
766 10 percent of the value of labor, services, or materials

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767 furnished by the lienor is not considered a nonpayment requiring
768 the service of the notice provided under this paragraph. If the
769 payment bond is not recorded before commencement of
770 construction, the time period for the lienor to serve a notice
771 of nonpayment may, at the option of the lienor, be calculated
772 from the date specified in this section or the date the lienor
773 is served a copy of the bond. However, the limitation period for
774 commencement of an action on the payment bond as established in
775 paragraph (e) may not be expanded. The negligent inclusion or
776 omission of any information in the notice of nonpayment that has
777 not prejudiced the contractor or surety does not constitute a
778 default that operates to defeat an otherwise valid bond claim. A
779 lienor who serves a fraudulent notice of nonpayment forfeits his
780 or her rights under the bond. A notice of nonpayment is
781 fraudulent if the lienor has willfully exaggerated the amount
782 unpaid, willfully included a claim for work not performed or
783 materials not furnished for the subject improvement, or prepared
784 the notice with such willful and gross negligence as to amount
785 to a willful exaggeration. However, a minor mistake or error in
786 a notice of nonpayment, or a good faith dispute as to the amount
787 unpaid, does not constitute a willful exaggeration that operates
788 to defeat an otherwise valid claim against the bond. The service
789 of a fraudulent notice of nonpayment is a complete defense to
790 the lienor's claim against the bond. The notice under this
791 paragraph must include the following information, current as of

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792 the date of the notice, and must be in substantially the
793 following form:

794

795 NOTICE OF NONPAYMENT

796

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

798

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

800

801 The undersigned lienor notifies you that:

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

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

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

814

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

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817 knowledge and belief.

818

819 DATED on,

820

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

822

823 STATE OF FLORIDA

824 COUNTY OF.....

825

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

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

831 ... (Print, Type, or Stamp Commissioned Name of Notary
832 Public)...

833

834 Personally Known OR Produced Identification

835

836 Type of Identification Produced

837 (e) An action for the labor, ~~or~~ materials, or supplies may
838 not be instituted or prosecuted against the contractor or surety
839 unless both notices have been given, if required by this
840 section. An action may not be instituted or prosecuted against
841 the contractor or against the surety on the bond under this

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842 section after 1 year from the performance of the labor or
843 completion of delivery of the materials and supplies. The time
844 period for bringing an action against the contractor or surety
845 on the bond is ~~shall be~~ measured from the last day of furnishing
846 labor, services, or materials by the lienor. The time period may
847 not be measured by other standards, such as the issuance of a
848 certificate of occupancy or the issuance of a certificate of
849 substantial completion. A contractor or the contractor's
850 attorney may elect to shorten the time within which an action to
851 enforce any claim against a payment bond provided under this
852 section or s. 713.245 must be commenced at any time after a
853 notice of nonpayment, if required, has been served for the claim
854 by recording in the clerk's office a notice in substantially the
855 following form:

NOTICE OF CONTEST OF CLAIM

AGAINST PAYMENT BOND

856
857
858 To: ... (Name and address of lienor) ...

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

864 DATED on,

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

866 The claim of any lienor upon whom the notice is served and who

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867 fails to institute a suit to enforce his or her claim against
868 the payment bond within 60 days after service of the notice
869 shall be extinguished automatically. The contractor or the
870 contractor's attorney shall serve a copy of the notice of
871 contest to the lienor at the address shown in the notice of
872 nonpayment or most recent amendment thereto and shall certify to
873 such service on the face of the notice and record the notice.

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

876 713.24 Transfer of liens to security.—

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

881 (a) Depositing in the clerk's office a sum of money, or

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

884
885 either to be in an amount equal to the amount demanded in such
886 claim of lien, plus interest thereon at the legal rate for 3
887 years, plus \$5,000 ~~\$1,000~~ or 25 percent of the amount demanded
888 in the claim of lien, whichever is greater, to apply on any
889 attorney ~~attorney's~~ fees and court costs that may be taxed in
890 any proceeding to enforce said lien. Such deposit or bond shall
891 be conditioned to pay any judgment or decree which may be

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892 rendered for the satisfaction of the lien for which such claim
893 of lien was recorded. Upon making such deposit or filing such
894 bond, the clerk shall make and record a certificate which must
895 include a copy of the deposit or bond used to transfer, showing
896 the transfer of the lien from the real property to the security
897 and shall mail a copy thereof together with a copy of the
898 deposit or bond used to transfer by registered or certified mail
899 to the lienor named in the claim of lien so transferred, at the
900 address stated therein. Upon filing the certificate of transfer,
901 the real property shall thereupon be released from the lien
902 claimed, and such lien shall be transferred to said security. In
903 the absence of allegations of privity between the lienor and the
904 owner, and subject to any order of the court increasing the
905 amount required for the lien transfer deposit or bond, no other
906 judgment or decree to pay money may be entered by the court
907 against the owner. The clerk ~~is shall be~~ entitled to a service
908 charge for making and serving the certificate, in the amount of
909 up to \$20, from which the clerk shall remit \$5 to the Department
910 of Revenue for deposit into the General Revenue Fund. If the
911 transaction involves the transfer of multiple liens, an
912 additional charge of up to \$10 for each additional lien shall be
913 charged, from which the clerk shall remit \$2.50 to the
914 Department of Revenue for deposit into the General Revenue Fund.
915 For recording the certificate and approving the bond, the clerk
916 shall receive her or his usual statutory service charges as

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917 prescribed in s. 28.24. Any number of liens may be transferred
918 to one such security.

919 (3) Any party having an interest in such security or the
920 property from which the lien was transferred may at any time,
921 and any number of times, file a complaint in chancery in the
922 circuit court of the county where such security is deposited, or
923 file a motion in a pending action to enforce a lien, for an
924 order to require additional security, reduction of security,
925 change or substitution of sureties, payment of discharge
926 thereof, or any other matter affecting said security. If the
927 court finds that the amount of the deposit or bond in excess of
928 the amount claimed in the claim of lien is insufficient to pay
929 the lienor's attorney ~~attorney's~~ fees and court costs incurred
930 in the action to enforce the lien, the court must increase the
931 amount of the cash deposit or lien transfer bond. Nothing in
932 this section shall be construed to vest exclusive jurisdiction
933 in the circuit courts over transfer bond claims for nonpayment
934 of an amount within the monetary jurisdiction of the county
935 courts.

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

937 Section 15. Section 713.29, Florida Statutes, is amended
938 to read:

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

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

947 Section 16. Paragraph (b) of subsection (2) and paragraph
948 (e) of subsection (5) of section 95.11, Florida Statutes, are
949 amended to read:

950 95.11 Limitations other than for the recovery of real
951 property.—Actions other than for recovery of real property shall
952 be commenced as follows:

953 (2) WITHIN FIVE YEARS.—

954 (b) A legal or equitable action on a contract, obligation,
955 or liability founded on a written instrument, except for an
956 action to enforce a claim against a payment bond, which shall be
957 governed by the applicable provisions of paragraph (5)(e), s.
958 255.05(9) ~~s. 255.05(10)~~, s. 337.18(1), or s. 713.23(1)(e), and
959 except for an action for a deficiency judgment governed by
960 paragraph (5)(h).

961 (5) WITHIN ONE YEAR.—

962 (e) Except for actions governed by s. 255.05(9) ~~s.~~
963 ~~255.05(10)~~, s. 337.18(1), or s. 713.23(1)(e), an action to
964 enforce any claim against a payment bond on which the principal
965 is a contractor, subcontractor, or sub-subcontractor as defined
966 in s. 713.01, for private work as well as public work, from the

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967 last furnishing of labor, services, or materials or from the
968 last furnishing of labor, services, or materials by the
969 contractor if the contractor is the principal on a bond on the
970 same construction project, whichever is later.

971 Section 17. This act shall take effect July 1, 2022.

972

973 -----

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

975 Remove everything before the enacting clause and insert:

976 An act relating to liens and bonds; amending s.

977 255.05, F.S.; revising when a notice of contest of

978 claim against a payment bond must be served; requiring

979 that a copy of a notice of nonpayment be served on the

980 surety; revising the process for notarizing a notice

981 of nonpayment; removing the authority for a contractor

982 to file certain alternative forms of security rather

983 than a bond; requiring service of documents to be made

984 in a specified manner; conforming provisions to

985 changes made by the act; making technical changes;

986 amending s. 337.18, F.S.; requiring service of

987 documents to be made in a specified manner; conforming

988 provisions to changes made by the act; amending s.

989 713.01, F.S.; revising and providing definitions;

990 creating s. 713.011, F.S.; providing for the

991 computation of time for recording a document or filing

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992 an action when certain time periods fall on specified
993 days or during a declared state of emergency;
994 specifying when a clerk's office is considered open;
995 amending s. 713.10, F.S.; revising the extent of
996 certain liens; amending s. 713.13, F.S.; conforming a
997 cross-reference; revising the process for notarizing a
998 notice of commencement; amending s. 713.132, F.S.;
999 revising requirements for a notice of termination;
1000 revising when an owner may record a notice of
1001 termination; specifying when a notice of termination
1002 terminates the notice of commencement; amending s.
1003 713.135, F.S.; providing a definition; providing
1004 applicability; making technical changes; providing
1005 that an issuing authority is not liable for failing to
1006 verify that specified information has been filed;
1007 amending s. 713.18, F.S.; requiring service of
1008 documents relating to construction bonds to be made in
1009 a specified manner; making technical changes; amending
1010 s. 713.21, F.S.; authorizing the full or partial
1011 release of a lien under specified conditions; amending
1012 s. 713.22, F.S.; revising the information required in
1013 the notice of contest of lien; amending s. 713.23,
1014 F.S.; requiring that a copy of a notice of nonpayment
1015 be served on the surety; revising the process for
1016 notarizing a notice of nonpayment under a payment

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1017 bond; amending s. 713.24, F.S.; revising the amount
1018 required in addition to the deposit or bond that
1019 applies toward attorney fees and costs; requiring the
1020 clerk to make a copy of the deposit or bond used to
1021 transfer a lien to other security and mail it to the
1022 lienor; repealing s. 713.25, F.S., relating to
1023 applicability of ch. 65-456; amending s. 713.29, F.S.;
1024 authorizing attorney fees in actions to enforce a lien
1025 that has been transferred to security; amending s.
1026 95.11, F.S.; conforming a cross-reference; providing
1027 an effective date.