

By Senator Bennett

21-00364A-09

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1                   A bill to be entitled  
2           An act relating to construction bonds; amending s.  
3           255.05, F.S.; requiring a surety to record in the  
4           public records a payment bond for a public works  
5           construction project; requiring that the bond number  
6           be stated on the first page of a bond; prohibiting the  
7           issuing authority for a building permit or a private  
8           provider providing inspection services from inspecting  
9           certain improvements until the filing of a payment  
10          bond or statement that the contract is exempt from the  
11          requirements for a payment bond; requiring the clerk  
12          of court to serve a notice of contest of lien;  
13          amending s. 713.13, F.S.; revising the date on which a  
14          notice of commencement expires; revising the form of a  
15          notice of commencement; requiring the posting of a  
16          payment bond on a job site; replacing the warning to  
17          owner on the notice of commencement with a notice to  
18          subcontractors; amending s. 713.135, F.S.; revising  
19          the warning to the owner which is printed on permit  
20          cards; deleting a requirement for filing a notice of  
21          commencement before certain inspections; revising the  
22          warning to the owner which is provided on a building  
23          permit form; creating s. 713.137, F.S.; prohibiting  
24          the issuing authority of a building permit or a  
25          private provider providing inspection services from  
26          inspecting an improvement until documents relating to  
27          the notice of commencement and payment bond have been  
28          filed; providing exceptions; amending s. 713.16, F.S.;  
29          authorizing a lienor who submits or mails a claim of

21-00364A-09

2009560\_\_

30           lien to the clerk for recording to make certain  
 31           demands for certain written statements of an owner;  
 32           amending s. 713.18, F.S.; providing additional methods  
 33           by which instruments may be served by mail; amending  
 34           s. 713.22, F.S.; requiring the clerk of court to serve  
 35           a notice of contest of lien; amending s. 713.23, F.S.;  
 36           requiring the clerk of court to serve a notice of  
 37           contest of nonpayment; conforming cross-references;  
 38           amending s. 713.24, F.S.; requiring the clerk of court  
 39           to serve a copy of the certificate showing the  
 40           transfer of a lien and a copy of the bond if the lien  
 41           is transferred to a bond; providing an effective date.

42  
 43 Be It Enacted by the Legislature of the State of Florida:

44  
 45           Section 1. Subsection (1) and paragraph (a) of subsection  
 46           (2) of section 255.05, Florida Statutes, are amended to read:  
 47           255.05 Bond of contractor constructing public buildings;  
 48           form; action by materialmen.-

49           (1) ~~(a)~~ Any person entering into a formal contract with the  
 50           state or any county, municipality ~~city~~, or political subdivision  
 51           thereof, or other public authority or private entity, for the  
 52           construction of a public building, for the prosecution and  
 53           completion of a public work, or for repairs upon a public  
 54           building or public work shall ~~be required~~, before commencing the  
 55           work or before recommencing the work after a default or  
 56           abandonment, ~~to~~ execute and, deliver to the public owner, ~~and~~  
 57           ~~record in the public records of the county where the improvement~~  
 58           ~~is located~~, a payment and performance bond with a surety insurer

21-00364A-09

2009560\_\_

59 authorized to do business in this state as surety.

60 (a) A public entity may not require a contractor to secure  
61 a surety bond under this section from a specific agent or  
62 bonding company.

63 (b) The bond must state on its front page: the name,  
64 principal business address, and phone number of the contractor,  
65 the surety, the owner of the property being improved, and, if  
66 different from the owner, the contracting public entity; the  
67 contract number assigned by the contracting public entity; the  
68 bond number assigned by the surety; and a description of the  
69 project sufficient to identify it, such as a legal description  
70 or the street address of the property being improved, and a  
71 general description of the improvement.

72 (c) Such bond shall be conditioned upon the contractor's  
73 performance of the construction work in the time and manner  
74 prescribed in the contract and promptly making payments to all  
75 persons defined in s. 713.01 who furnish labor, services, or  
76 materials for the prosecution of the work provided for in the  
77 contract.

78 (d) The surety shall record the payment bond upon issuance  
79 in the public records of the county in which the improvement  
80 will be located.

81 (e)1. The issuing authority for the building permit, or a  
82 private provider providing inspection services, may not inspect  
83 the property being improved until:

84 a. The issuing authority has a copy of the contractor's  
85 recorded payment bond on file; or

86 b. The contracting public entity has filed a notarized  
87 statement stating that the contract is exempt from the

21-00364A-09

2009560\_\_

88 requirement for a payment bond under this section.

89 2. This paragraph does not apply to inspections for the  
90 installation of temporary electrical service or other temporary  
91 utility service, land clearing, or other preliminary site work.

92 (f) Any claimant may apply to the governmental entity  
93 having charge of the work for copies of the contract and bond  
94 and shall thereupon be furnished with a certified copy of the  
95 contract and bond. The claimant has ~~shall have~~ a right of action  
96 against the contractor and surety for the amount due him or her,  
97 including unpaid finance charges due under the claimant's  
98 contract. Such action shall not involve the public authority in  
99 any expense.

100 (g)1. A payment and performance bond is not required for a  
101 contract of \$100,000 or less with the state. ~~When such work is~~  
102 ~~done for the state and the contract is for \$100,000 or less, no~~  
103 ~~payment and performance bond shall be required.~~

104 ~~2. At the discretion of~~ The official or board awarding a  
105 ~~such contract when such work is done for a~~ a  
106 municipality ~~city~~, political subdivision, or public authority  
107 may exempt a contract, ~~any person entering into such a contract~~  
108 ~~which is~~ for \$200,000 or less from the requirement for a ~~may be~~  
109 ~~exempted from executing the~~ payment and performance bond.

110 ~~3. When such work is done for the state,~~ The Secretary of  
111 Management Services may delegate to a state agency ~~agencies~~ the  
112 authority to exempt ~~any person entering into such a contract for~~  
113 ~~amounting to~~ more than \$100,000 but less than \$200,000 from the  
114 requirement for a ~~executing the~~ payment and performance bond. If  
115 ~~In the event~~ such exemption is granted, the officer or officials  
116 are ~~shall~~ not be personally liable to persons suffering loss

21-00364A-09

2009560\_\_

117 because of granting such exemption. The Department of Management  
118 Services shall maintain information on the number of requests by  
119 state agencies for delegation of authority to waive the bond  
120 requirements by agency and project number and whether any  
121 request for delegation was denied and the justification for the  
122 denial.

123 (h) Any provision in a payment bond furnished for public  
124 work contracts as provided by this subsection which restricts  
125 the classes of persons as defined in s. 713.01 protected by the  
126 bond or the venue of any proceeding relating to such bond is  
127 unenforceable.

128 (i)~~(b)~~ The Department of Management Services shall adopt  
129 rules with respect to all contracts for \$200,000 or less, to  
130 provide:

131 1. Procedures for retaining up to 10 percent of each  
132 request for payment submitted by a contractor and procedures for  
133 determining disbursements from the amount retained on a pro rata  
134 basis to laborers, materialmen, and subcontractors, as defined  
135 in s. 713.01.

136 2. Procedures for requiring certification from laborers,  
137 materialmen, and subcontractors, as defined in s. 713.01, prior  
138 to final payment to the contractor that such laborers,  
139 materialmen, and subcontractors have no claims against the  
140 contractor resulting from the completion of the work provided  
141 for in the contract.

142  
143 The state is ~~shall~~ not be held liable to any laborer,  
144 materialman, or subcontractor for any amounts greater than the  
145 pro rata share as determined under this section.

21-00364A-09

2009560\_\_

146        (j)~~(e)~~1. The amount of the bond shall equal the contract  
 147 price, except that for a contract in excess of \$250 million, if  
 148 the state, county, municipality, political subdivision, or other  
 149 public entity finds that a bond in the amount of the contract  
 150 price is not reasonably available, the public owner shall set  
 151 the amount of the bond at the largest amount reasonably  
 152 available, but not less than \$250 million.

153        2. For construction-management or design-build contracts,  
 154 if the public owner does not include in the bond amount the cost  
 155 of design or other nonconstruction services, the bond may not be  
 156 conditioned on performance of such services or payment to  
 157 persons furnishing such services. Notwithstanding paragraph (h)  
 158 ~~paragraph (a)~~, such a bond may exclude persons furnishing such  
 159 services from the classes of persons protected by the bond.

160        (2) (a)1. If a claimant is no longer furnishing labor,  
 161 services, or materials on a project, a contractor or the  
 162 contractor's agent or attorney may elect to shorten the  
 163 ~~prescribed time in this paragraph~~ within which an action to  
 164 enforce any claim against a payment bond must ~~provided pursuant~~  
 165 ~~to this section may~~ be commenced by recording in the clerk's  
 166 office a notice in substantially the following form:

NOTICE OF CONTEST OF CLAIM  
 AGAINST PAYMENT BOND

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

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

21-00364A-09

2009560\_\_

175 days after the date of service of this notice.

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

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

178

179 The claim of any claimant upon whom such notice is served and  
180 who fails to institute a suit to enforce his or her claim  
181 against the payment bond within 60 days after service of such  
182 notice shall be extinguished automatically. The clerk shall  
183 serve mail a copy of the notice of contest to the claimant at  
184 the address shown in the notice of nonpayment or most recent  
185 amendment thereto and shall certify to such service on the face  
186 of such notice and record the notice. ~~Service is complete upon~~  
187 ~~mailing.~~

188 2. A claimant, except a laborer, who is not in privity with  
189 the contractor shall, before commencing or not later than 45  
190 days after commencing to furnish labor, services, or materials  
191 for the prosecution of the work, furnish the contractor with a  
192 written notice that he or she intends to look to the bond for  
193 protection. A claimant who is not in privity with the contractor  
194 and who has not received payment for his or her labor, services,  
195 or materials shall deliver to the contractor and to the surety  
196 written notice of the performance of the labor or delivery of  
197 the materials or supplies and of the nonpayment. The notice of  
198 nonpayment may be served at any time during the progress of the  
199 work or thereafter but not before 45 days after the first  
200 furnishing of labor, services, or materials, and not later than  
201 90 days after the final furnishing of the labor, services, or  
202 materials by the claimant or, with respect to rental equipment,  
203 not later than 90 days after the date that the rental equipment

21-00364A-09

2009560\_\_

204 was last on the job site available for use. Any notice of  
205 nonpayment served by a claimant who is not in privity with the  
206 contractor which includes sums for retainage must specify the  
207 portion of the amount claimed for retainage. An ~~Ne~~ action for  
208 ~~the~~ labor, materials, or supplies may not be instituted against  
209 the contractor or the surety unless both notices have been  
210 given. Notices required or permitted under this section may be  
211 served in accordance with s. 713.18. A claimant may not waive in  
212 advance his or her right to bring an action under the bond  
213 against the surety. In any action brought to enforce a claim  
214 against a payment bond under this section, the prevailing party  
215 is entitled to recover a reasonable fee for the services of his  
216 or her attorney for trial and appeal or for arbitration, in an  
217 amount to be determined by the court, which fee must be taxed as  
218 part of the prevailing party's costs, as allowed in equitable  
219 actions. The time periods for service of a notice of nonpayment  
220 or for bringing an action against a contractor or a surety shall  
221 be measured from the last day of furnishing labor, services, or  
222 materials by the claimant and shall not be measured by other  
223 standards, such as the issuance of a certificate of occupancy or  
224 the issuance of a certificate of substantial completion.

225 Section 2. Section 713.13, Florida Statutes, is amended to  
226 read:

227 713.13 Notice of commencement.—

228 (1) (a) Except for an improvement that is exempt pursuant to  
229 s. 713.02(5), an owner or the owner's authorized agent before  
230 actually commencing to improve any real property, or  
231 recommencing completion of any improvement after default or  
232 abandonment, whether or not a project has a payment bond



21-00364A-09

2009560\_\_

233 complying with s. 713.23, shall record a notice of commencement  
234 in the clerk's office and forthwith post either a certified copy  
235 thereof or a notarized statement that the notice of commencement  
236 has been filed for recording along with a copy thereof. The  
237 notice of commencement shall contain the following information:

238 1. A description sufficient for identification of the real  
239 property to be improved. The description should include the  
240 legal description of the property and also should include the  
241 street address and tax folio number of the property if available  
242 or, if there is no street address available, such additional  
243 information as will describe the physical location of the real  
244 property to be improved.

245 2. A general description of the improvement.

246 3. The name and address of the owner, the owner's interest  
247 in the site of the improvement, and the name and address of the  
248 fee simple titleholder, if other than such owner.

249 4. The name and address of the contractor.

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

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

254 7. The name and address within the state of a person other  
255 than himself or herself who may be designated by the owner as  
256 the person upon whom notices or other documents may be served  
257 under this part; and service upon the person so designated  
258 constitutes service upon the owner.

259 (b) The owner, ~~at his or her option,~~ may designate a person  
260 in addition to himself or herself to receive a copy of the  
261 lienor's notice as provided in s. 713.06(2)(b), and if he or she

21-00364A-09

2009560\_\_

262 does so, the name and address of such person must be included in  
263 the notice of commencement.

264 (c) A notice of commencement expires:

265 1. Ninety days after the day of the final furnishing of all  
266 labor, services, and materials required by the direct contract,  
267 including any change orders; or

268 2. On the effective date of a Notice of Termination that  
269 has been served and recorded. ~~If the contract between the owner~~  
270 ~~and a contractor named in the notice of commencement expresses a~~  
271 ~~period of time for completion for the construction of the~~  
272 ~~improvement greater than 1 year, the notice of commencement must~~  
273 ~~state that it is effective for a period of 1 year plus any~~  
274 ~~additional period of time. Any payments made by the owner after~~  
275 ~~the expiration of the notice of commencement are considered~~  
276 ~~improper payments.~~

277 (d) A notice of commencement must be in substantially the  
278 following form:

279 Permit No..... Tax Folio No.....

280 NOTICE OF COMMENCEMENT

281 State of....

282 County of....

283 The undersigned hereby gives notice that improvement will be  
284 made to certain real property, and in accordance with Chapter  
285 713, Florida Statutes, the following information is provided in  
286 this Notice of Commencement.

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

289 2. General description of improvement:.....

290 3. Owner information:.....

21-00364A-09

2009560\_\_

291 a. Name and address:.....

292 b. Interest in property:.....

293 c. Name and address of fee simple titleholder (if other

294 than Owner):.....

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

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

297 5. Surety (a copy of the payment bond is attached, if the

298 project is bonded)

299 a. Name and address:.....

300 b. Phone number:.....

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

302 6.a. Lender: ...(name and address)....

303 b. Lender's phone number:.....

304 7.a. Persons within the State of Florida designated by

305 Owner upon whom notices or other documents may be served as

306 provided by Section 713.13(1)(a)7., Florida Statutes: ...(name

307 and address)....

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

309 8.a. In addition to himself or herself, Owner designates

310 ..... of ..... to receive a copy of the Lienor's

311 Notice as provided in Section 713.13(1)(b), Florida Statutes.

312 b. Phone number of person or entity designated by

313 owner:.....

314 9. This notice of commencement expires 90 days after the

315 day of the final furnishing of all labor, services, and

316 materials required by the direct contract, including any change

317 orders, or on the effective date of a Notice of Termination.

318 ~~Expiration date of notice of commencement (the expiration date~~

319 ~~is 1 year from the date of recording unless a different date is~~

21-00364A-09

2009560\_\_

320 ~~specified).....~~

321

322 NOTICE TO SUBCONTRACTORS: PURSUANT TO SECTION 713.13, FLORIDA  
323 STATUTES, THIS NOTICE OF COMMENCEMENT AND THE CONTRACTOR'S  
324 PAYMENT BOND, IF ANY, WERE FILED FOR RECORDING IN THE OFFICE OF  
325 THE....(county name)....COUNTY CLERK OF COURT

326 ~~ON....(date).....WARNING TO OWNER: ANY PAYMENTS MADE BY THE~~  
327 ~~OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE~~  
328 ~~CONSIDERED IMPROPER PAYMENTS UNDER CHAPTER 713, PART I, SECTION~~  
329 ~~713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE~~  
330 ~~FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST~~  
331 ~~BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST~~  
332 ~~INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR~~  
333 ~~LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR~~  
334 ~~NOTICE OF COMMENCEMENT.~~

335

336 Under penalties of perjury, I declare that I have read the  
337 foregoing notice of commencement and that the facts stated in it  
338 are true to the best of my knowledge and belief.

339

340 ... (Signature of Owner or Owner's Authorized  
341 Officer/Director/Partner/Manager)...

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

343 The foregoing instrument was acknowledged before me this ....  
344 day of ....., ... (year) ..., by ... (name of person) ... as ... (type  
345 of authority, ...e.g. officer, trustee, attorney in fact) ... for  
346 ... (name of party on behalf of whom instrument was executed) ....

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

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

21-00364A-09

2009560\_\_

349 Personally Known .... OR Produced Identification ....  
350 Type of Identification Produced.....

351 ~~Verification pursuant to Section 92.525, Florida Statutes.~~

352 ~~Under penalties of perjury, I declare that I have read the~~  
353 ~~foregoing and that the facts stated in it are true to the best~~  
354 ~~of my knowledge and belief.~~

355 ~~...(Signature of Natural Person Signing Above)...~~

356 (e) A copy of any payment bond must be attached at the time  
357 of recordation of the notice of commencement. The failure to  
358 attach a copy of the bond to the notice of commencement when the  
359 notice is recorded negates the exemption provided in s.  
360 713.02(6). However, if a payment bond under s. 713.23 exists but  
361 was not attached at the time of recordation of the notice of  
362 commencement, the bond may be used to transfer any recorded lien  
363 of a lienor except that of the contractor by the recordation and  
364 service of a notice of bond pursuant to s. 713.23(2). The notice  
365 requirements of s. 713.23 apply to any claim against the bond;  
366 however, the time limits for serving any required notices shall  
367 begin running from the later of the time specified in s. 713.23  
368 or the date the notice of bond is served on the lienor.

369 (f) The giving of a notice of commencement is effective  
370 upon the filing of the notice in the clerk's office.

371 (g) The owner must sign the notice of commencement and no  
372 one else may be permitted to sign in his or her stead.

373 (2) If the improvement described in the notice of  
374 commencement is not actually commenced within 90 days after the  
375 recording thereof, such notice is void and of no further effect.

376 (3) The recording of a notice of commencement does not  
377 constitute a lien, cloud, or encumbrance on real property, but

21-00364A-09

2009560\_\_

378 gives constructive notice that claims of lien under this part  
379 may be recorded and may take priority as provided in s. 713.07.  
380 The posting of a copy does not constitute a lien, cloud, or  
381 encumbrance on real property, nor actual or constructive notice  
382 of any of them.

383 (4) This section does not apply to an owner who is  
384 constructing improvements described in s. 713.04.

385 (5) (a) A notice of commencement that is recorded within the  
386 effective period may be amended to ~~extend the effective period,~~  
387 change erroneous information in the original notice, or add  
388 information that was omitted from the original notice. However,  
389 in order to change contractors, a new notice of commencement or  
390 notice of recommencement must be executed and recorded.

391 (b) The amended notice must identify the official records  
392 book and page where the original notice of commencement is  
393 recorded, and a copy of the amended notice must be served by the  
394 owner upon the contractor and each lienor who serves notice  
395 before or within 30 days after the date the amended notice is  
396 recorded.

397 (6) Unless otherwise provided in the notice of commencement  
398 or a new or amended notice of commencement, a notice of  
399 commencement is not effectual in law or equity against a  
400 conveyance, transfer, or mortgage of or lien on the real  
401 property described in the notice, or against creditors or  
402 subsequent purchasers for a valuable consideration, after 1 year  
403 after the date of recording the notice of commencement.

404 (7) A lender must, prior to the disbursement of any  
405 construction funds to the contractor, record the notice of  
406 commencement in the clerk's office as required by this section;

21-00364A-09

2009560\_\_

407 however, the lender is not required to post a certified copy of  
408 the notice at the construction site. The posting of the notice  
409 at the construction site remains the owner's obligation. The  
410 failure of a lender to record the notice of commencement as  
411 required by this subsection renders the lender liable to the  
412 owner for all damages sustained by the owner as a result of the  
413 failure. Whenever a lender is required to record a notice of  
414 commencement, the lender shall designate the lender, in addition  
415 to others, to receive copies of notices to owner. This  
416 subsection does not give any person other than the owner a claim  
417 or right of action against a lender for failure to record a  
418 notice of commencement.

419 Section 3. Subsections (1), (2), and (6) of section  
420 713.135, Florida Statutes, are amended to read:

421 713.135 Notice of commencement and applicability of lien.-

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

424 (a) Print on the face of each permit card in no less than  
425 14-point, capitalized, boldfaced type: "WARNING TO OWNER: IF YOU  
426 FAIL TO RECORD A NOTICE OF COMMENCEMENT, YOU MAY PAY YOUR  
427 FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR  
428 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF  
429 COMMENCEMENT AND THE CONTRACTOR'S PAYMENT BOND, IF THE PROJECT  
430 IS BONDED, MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE  
431 THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT  
432 WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF  
433 COMMENCEMENT."

434 (b) Provide the applicant and the owner of the real  
435 property upon which improvements are to be constructed with a

21-00364A-09

2009560\_\_

436 printed statement stating that the right, title, and interest of  
437 the person who has contracted for the improvement may be subject  
438 to attachment under the Construction Lien Law. The Department of  
439 Business and Professional Regulation shall furnish, for  
440 distribution, the statement described in this paragraph, and the  
441 statement must be a summary of the Construction Lien Law and  
442 must include an explanation of the provisions of the  
443 Construction Lien Law relating to the recording, and the posting  
444 of copies, of notices of commencement and a statement  
445 encouraging the owner to record a notice of commencement and  
446 post a copy of the notice of commencement in accordance with s.  
447 713.13. The statement must also contain an explanation of the  
448 owner's rights if a lienor fails to furnish the owner with a  
449 notice as provided in s. 713.06(2) and an explanation of the  
450 owner's rights as provided in s. 713.22. The authority that  
451 issues the building permit must obtain from the Department of  
452 Business and Professional Regulation the statement required by  
453 this paragraph and must mail, deliver by electronic mail or  
454 other electronic format or facsimile, or personally deliver that  
455 statement to the owner or, in a case in which the owner is  
456 required to personally appear to obtain the permit, provide that  
457 statement to any owner making improvements to real property  
458 consisting of a single or multiple family dwelling up to and  
459 including four units. However, the failure by the authorities to  
460 provide the summary does not subject the issuing authority to  
461 liability.

462 (c) Require ~~In addition to providing the owner with the~~  
463 ~~statement as required by paragraph (b), inform~~ each applicant  
464 who is not the person whose right, title, and interest is



21-00364A-09

2009560\_\_

465 subject to attachment ~~that~~, as a condition to the issuance of a  
466 building permit, to promise to deliver ~~the applicant must~~  
467 ~~promise in good faith that~~ the statement ~~will be delivered~~ to  
468 the person whose property is subject to attachment.

469 (d) Furnish to the applicant two or more copies of a form  
470 of notice of commencement conforming with s. 713.13. ~~If the~~  
471 ~~direct contract is greater than \$2,500, the applicant shall file~~  
472 ~~with the issuing authority prior to the first inspection either~~  
473 ~~a certified copy of the recorded notice of commencement or a~~  
474 ~~notarized statement that the notice of commencement has been~~  
475 ~~filed for recording, along with a copy thereof. In the absence~~  
476 ~~of the filing of a certified copy of the recorded notice of~~  
477 ~~commencement, the issuing authority or a private provider~~  
478 ~~performing inspection services may not perform or approve~~  
479 ~~subsequent inspections until the applicant files by mail,~~  
480 ~~facsimile, hand delivery, or any other means such certified copy~~  
481 ~~with the issuing authority. The certified copy of the notice of~~  
482 ~~commencement must contain the name and address of the owner, the~~  
483 ~~name and address of the contractor, and the location or address~~  
484 ~~of the property being improved. The issuing authority shall~~

485 (e) Verify that the name and address of the owner, the name  
486 of the contractor, and the location or address of the property  
487 being improved which is contained in the certified copy of the  
488 notice of commencement is consistent with the information in the  
489 building permit application. ~~The issuing authority shall provide~~  
490 ~~the recording information on the certified copy of the recorded~~  
491 ~~notice of commencement to any person upon request. This~~  
492 ~~subsection does not require the recording of a notice of~~  
493 ~~commencement prior to the issuance of a building permit.~~

21-00364A-09

2009560\_\_

494           (f) Provide the book and page number of the official public  
495 records on which the notice of commencement and payment bond, if  
496 any, are recorded to any person upon request. ~~If a local~~  
497 ~~government requires a separate permit or inspection for~~  
498 ~~installation of temporary electrical service or other temporary~~  
499 ~~utility service, land clearing, or other preliminary site work,~~  
500 ~~such permits may be issued and such inspections may be conducted~~  
501 ~~without providing the issuing authority with a certified copy of~~  
502 ~~a recorded notice of commencement or a notarized statement~~  
503 ~~regarding a recorded notice of commencement. This subsection~~  
504 ~~does not apply to a direct contract to repair or replace an~~  
505 ~~existing heating or air conditioning system in an amount less~~  
506 ~~than \$7,500.~~

507           (g)~~(e)~~ Not require that a notice of commencement be  
508 recorded as a condition of the application for, or processing or  
509 issuance of, a building permit. ~~However, this paragraph does not~~  
510 ~~modify or waive the inspection requirements set forth in this~~  
511 ~~subsection.~~

512           (2) An issuing authority under subsection (1) is not liable  
513 in any civil action for the failure of the person whose property  
514 is subject to attachment to receive or to be delivered a printed  
515 statement stating that the right, title, and interest of the  
516 person who has contracted for the improvement may be subject to  
517 attachment under the Construction Lien Law.

518           (6) (a) In addition to any other information required by the  
519 authority issuing the permit, the building permit application  
520 must be in substantially the following form:

521  
522   Tax Folio No.....

21-00364A-09

2009560\_\_

523 BUILDING PERMIT APPLICATION

524

525 Owner's Name .....

526 Owner's Address .....

527 Fee Simple Titleholder's Name (If other than owner) .....

528 Fee Simple Titleholder's Address (If other than owner) .....

529 City .....

530 State..... Zip.....

531 Contractor's Name .....

532 Contractor's Address .....

533 City .....

534 State..... Zip.....

535 Job Name .....

536 Job Address .....

537 City..... County.....

538 Legal Description .....

539 Bonding Company .....

540 Bonding Company Address .....

541 City..... State.....

542 Architect/Engineer's Name .....

543 Architect/Engineer's Address .....

544 Mortgage Lender's Name .....

545 Mortgage Lender's Address .....

546

547 Application is hereby made to obtain a permit to do the

548 work and installations as indicated. I certify that no work or

549 installation has commenced prior to the issuance of a permit and

550 that all work will be performed to meet the standards of all

551 laws regulating construction in this jurisdiction. I understand

21-00364A-09

2009560\_\_

552 that a separate permit must be secured for ELECTRICAL WORK,  
553 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,  
554 TANKS, and AIR CONDITIONERS, etc.

555 OWNER'S AFFIDAVIT: I certify that all the foregoing information  
556 is accurate and that all work will be done in compliance with  
557 all applicable laws regulating construction and zoning.

558 WARNING TO OWNER: IF YOU FAIL TO RECORD A NOTICE OF  
559 COMMENCEMENT, YOU MAY PAY YOUR FAILURE TO RECORD A  
560 NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE  
561 FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF  
562 COMMENCEMENT AND THE CONTRACTOR'S PAYMENT BOND, IF THE  
563 PROJECT IS BONDED, MUST BE RECORDED AND POSTED ON THE  
564 JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO  
565 OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN  
566 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR  
567 NOTICE OF COMMENCEMENT.

568  
569 ... (Signature of Owner or Agent) ...

570  
571 ... (including contractor) ...

572 STATE OF FLORIDA

573 COUNTY OF ....

574  
575 Sworn to (or affirmed) and subscribed before me this ....  
576 day of ....., ... (year) ..., by ... (name of person making  
577 statement) ....

578  
579 ... (Signature of Notary Public - State of Florida) ...

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

21-00364A-09

2009560\_\_

581 Personally Known .... OR Produced Identification ....  
 582 Type of Identification Produced.....  
 583 ... (Signature of Contractor)...

586 STATE OF FLORIDA

587 COUNTY OF ....

589 Sworn to (or affirmed) and subscribed before me this ....  
 590 day of ....., ... (year) ..., by ... (name of person making  
 591 statement)....

592 ... (Signature of Notary Public - State of Florida) ...  
 593 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

594 Personally Known .... OR Produced Identification ....  
 595 Type of Identification Produced.....  
 596 (Certificate of Competency Holder)

598 Contractor's State Certification or Registration No.....

600 Contractor's Certificate of Competency No.....

602 APPLICATION APPROVED BY

603 .....Permit Officer

604 (b) Consistent with the requirements of paragraph (a), an  
 605 authority responsible for issuing building permits under this  
 606 section may accept a building permit application in an  
 607 electronic format, as prescribed by the authority. Building  
 608 permit applications submitted to the authority electronically  
 609 must contain the following additional statement in lieu of the

21-00364A-09

2009560\_\_

610 requirement in paragraph (a) that a signed, sworn, and notarized  
611 signature of the owner or agent and the contractor be part of  
612 the owner's affidavit:

613

614 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of  
615 perjury, I declare that all the information contained in this  
616 building permit application is true and correct.

617 (c) An authority responsible for issuing building permit  
618 applications which accepts building permit applications in an  
619 electronic format shall provide public Internet access to the  
620 electronic building permit applications in a searchable format.

621 Section 4. Section 713.137, Florida Statutes, is created to  
622 read:

623 713.137 Prerequisites to inspection of improvements;  
624 exceptions.-

625 (1) The authority that issues a building permit or a  
626 private provider providing inspection services may not inspect  
627 the real property being improved unless:

628 (a) The following documents have been filed with the  
629 issuing authority:

630 1.a. A certified copy of the recorded notice of  
631 commencement; or

632 b. A notarized statement that the notice of commencement  
633 has been filed for recording, along with a copy of the notice;  
634 and

635 2.a. A copy of the contractor's recorded payment bond; or

636 b. A notarized statement of the contractor or owner stating  
637 that a payment bond was not required.

638 (b) The information in the notice of commencement filed

21-00364A-09

2009560\_\_

639 with the issuing authority is consistent with the building  
640 permit application, complete, and legible.

641 (2) This section does not apply to inspections of the  
642 following improvements:

643 (a) The installation of temporary electrical service or  
644 other temporary utility service, land clearing, or other  
645 preliminary site work.

646 (b) Improvements pursuant to a direct contract in an amount  
647 of \$5,000 or less.

648 (c) The repair or replacement of a heating or air-  
649 conditioning system pursuant to a direct contract in an amount  
650 of \$7,500 or less.

651 Section 5. Subsection (5) of section 713.16, Florida  
652 Statutes, is amended to read:

653 713.16 Demand for copy of contract and statements of  
654 account; form.—

655 (5) (a) Any lienor who submits or mails ~~has recorded~~ a claim  
656 of lien to the clerk for recording may make a written demand on  
657 the owner for a written statement under oath showing:

658 1. The amount of the direct contract under which the lien  
659 was recorded;

660 2. The dates and amounts paid or to be paid by or on behalf  
661 of the owner for all improvements described in the direct  
662 contract;

663 3. The reasonable estimated costs of completing the direct  
664 contract under which the lien was claimed pursuant to the scope  
665 of the direct contract; and

666 4. If known, the actual cost of completion.

667 (b) Any owner who does not provide the statement within 30

21-00364A-09

2009560\_\_

668 days after demand, or who provides a false or fraudulent  
669 statement, is not a prevailing party for purposes of an award of  
670 attorney's fees under s. 713.29. The written demand must include  
671 the following warning in conspicuous type in substantially the  
672 following form:

673       WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT  
674 WITHIN 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL  
675 RESULT IN THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY  
676 ACTION TO ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING  
677 THIS STATEMENT.

678       Section 6. Section 713.18, Florida Statutes, is amended to  
679 read:

680       713.18 Manner of serving notices and other instruments.—

681       (1) Service of notices, claims of lien, affidavits,  
682 assignments, and other instruments permitted or required under  
683 this part, or copies thereof when so permitted or required,  
684 unless otherwise specifically provided in this part, must be  
685 made by one of the following methods:

686       (a) By actual delivery to the person to be served; if a  
687 partnership, to one of the partners; if a corporation, to an  
688 officer, director, managing agent, or business agent; or, if a  
689 limited liability company, to a member or manager.

690       (b) By sending the same by registered, global express  
691 guaranteed, or certified mail, or by a national or international  
692 mail service reasonably calculated to give notice, with postage  
693 prepaid and, ~~or by overnight or second-day delivery with~~  
694 evidence of delivery, which may be in an electronic format.

695       (c) ~~If the method specified in paragraph (a) or paragraph~~  
696 ~~(b) cannot be accomplished,~~ By posting on the site of the



21-00364A-09

2009560\_\_

697 improvement if service as provided by paragraph (a) or paragraph  
698 (b) cannot be accomplished ~~premises~~.

699 (2) Notwithstanding subsection (1), service of ~~if~~ a notice  
700 to owner, a notice to contractor under s. 713.23, or a  
701 preliminary notice under s. 255.05 is ~~mailed by registered or~~  
702 ~~certified mail with postage prepaid to the person to be served~~  
703 ~~at any of the addresses set forth in subsection (3) within 40~~  
704 ~~days after the date the lienor first furnishes labor, services,~~  
705 ~~or materials, service of that notice is~~ effective as of the date  
706 of mailing if:

707 (a) The notice is mailed by registered, global express  
708 guaranteed, or certified mail, with postage prepaid to the  
709 person to be served at any of the addresses set forth in  
710 subsection (3);

711 (b) The notice is mailed within 40 days after the date the  
712 lienor first furnishes labor, services, or materials; and

713 (c)1. The person who served the notice maintains a  
714 registered or certified mail log that shows the registered or  
715 certified mail number issued by the United States Postal  
716 Service, the name and address of the person served, and the date  
717 stamp of the United States Postal Service confirming the date of  
718 mailing; ~~or if~~

719 2. The person who served the notice maintains electronic  
720 tracking records generated through use of the United States  
721 Postal Service Confirm service or a similar service containing  
722 the postal tracking number, the name and address of the person  
723 served, and verification of the date of receipt by the United  
724 States Postal Service.

725 (3) Service of ~~If~~ an instrument ~~served~~ pursuant to this

21-00364A-09

2009560\_\_

726 section is effective on the date of mailing if the instrument:

727 (a) Was sent to the last address shown in the notice of  
 728 commencement or any amendment thereto or, in the absence of a  
 729 notice of commencement, to the last address shown in the  
 730 building permit application, or to the last known address of the  
 731 person to be served; ~~and, is not received, but~~

732 (b) Is returned as being "refused," "moved, not  
 733 forwardable," or "unclaimed," or is otherwise not delivered or  
 734 deliverable through no fault of the person serving the item,  
 735 ~~then service is effective on the date the instrument was sent.~~

736 (4) A notice served by a lienor on one owner or one partner  
 737 of a partnership owning the real property ~~If the real property~~  
 738 ~~is owned by more than one person or a partnership, a lienor may~~  
 739 ~~serve any notices or other papers under this part on any one of~~  
 740 ~~such owners or partners, and such notice~~ is deemed notice to all  
 741 owners and partners.

742 Section 7. Section 713.22, Florida Statutes, is amended to  
 743 read:

744 713.22 Duration of lien.—

745 (1) A ~~No~~ lien provided by this part may not ~~shall~~ continue  
 746 for a longer period than 1 year after the claim of lien has been  
 747 recorded or 1 year after the recording of an amended claim of  
 748 lien that shows a later date of final furnishing of labor,  
 749 services, or materials, unless within that time an action to  
 750 enforce the lien is commenced in a court of competent  
 751 jurisdiction. A lien that has been continued beyond the 1-year  
 752 period ~~The continuation of the lien effected~~ by the commencement  
 753 of an ~~the~~ action is ~~shall~~ not enforceable ~~be good~~ against  
 754 creditors or subsequent purchasers for a valuable consideration

21-00364A-09

2009560\_\_

755 and without notice, unless a notice of lis pendens is recorded.

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

762 NOTICE OF CONTEST OF LIEN

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

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

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

771  
 772 The lien of any lienor upon whom such notice is served and who  
 773 fails to institute a suit to enforce his or her lien within 60  
 774 days after service of such notice shall be extinguished  
 775 automatically. The clerk shall serve ~~mail~~ a copy of the notice  
 776 of contest to the lien claimant at the address shown in the  
 777 claim of lien or most recent amendment thereto and shall certify  
 778 to such service on the face of such notice and record the  
 779 notice. ~~Service shall be deemed complete upon mailing.~~

780 Section 8. Paragraph (e) of subsection (1) and subsections  
 781 (2) and (4) of section 713.23, Florida Statutes, are amended to  
 782 read:

783 713.23 Payment bond.—

21-00364A-09

2009560\_\_

784 (1)  
 785 (e) An ~~No~~ action for the labor or materials or supplies may  
 786 not be instituted or prosecuted against the contractor or surety  
 787 unless both notices have been given. An ~~No~~ action may not ~~shall~~  
 788 be instituted or prosecuted against the contractor or against  
 789 the surety on the bond under this section after 1 year from the  
 790 performance of the labor or completion of delivery of the  
 791 materials and supplies. The time period for bringing an action  
 792 against the contractor or surety on the bond shall be measured  
 793 from the last day of furnishing labor, services, or materials by  
 794 the lienor. The time period may ~~and shall~~ not be measured by  
 795 other standards, such as the issuance of a certificate of  
 796 occupancy or the issuance of a certificate of substantial  
 797 completion. A contractor or the contractor's agent or attorney  
 798 may elect to shorten the ~~prescribed~~ time within which an action  
 799 to enforce any claim against a payment bond ~~provided~~ under this  
 800 section or s. 713.245 must ~~may~~ be commenced at any time after a  
 801 notice of nonpayment, if required, has been served for the claim  
 802 by recording in the clerk's office a notice in substantially the  
 803 following form:

804 NOTICE OF CONTEST OF CLAIM  
 805 AGAINST PAYMENT BOND

806  
 807 To: ...(Name and address of lienor)...

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

21-00364A-09

2009560\_\_

813  
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840  
841

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

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

The claim of any lienor upon whom the notice is served and who fails to institute a suit to enforce his or her claim against the payment bond within 60 days after service of the notice shall be extinguished automatically. The clerk shall serve mail a copy of the notice of contest to the lienor at the address shown in the notice of nonpayment or most recent amendment thereto and shall certify to such service on the face of the notice and record the notice. ~~Service is complete upon mailing.~~

(2) The bond shall secure every lien under the direct contract accruing subsequent to its execution and delivery, except that of the contractor. Every claim of lien, except that of the contractor, filed subsequent to execution and delivery of the bond shall be transferred to it with the same effect as liens transferred under s. 713.24. Record notice of the transfer shall be effected by the contractor, or any person having an interest in the property against which the claim of lien has been asserted, by recording in the clerk's office a notice in substantially the following form:

NOTICE OF BOND

To ...(Name and Address of Lienor)...

You are notified that the claim of lien filed by you on .....,

21-00364A-09

2009560\_\_

842 ...., and recorded in Official Records Book .... at page .... of  
 843 the public records of .... County, Florida, is secured by a  
 844 bond, a copy being attached.

845  
 846 Signed: ... (Name of person recording notice) ...  
 847

848 The notice shall be verified. The clerk shall mail a copy of the  
 849 notice to the lienor at the address shown in the claim of lien,  
 850 or the most recent amendment to it; shall certify to the service  
 851 on the face of the notice; and shall record the notice. The  
 852 clerk shall receive the same fee as prescribed in s. 713.24 ~~s.~~  
 853 ~~713.24(1)~~ for certifying to a transfer of lien.

854 (4) The provisions of s. 713.24(7) ~~s. 713.24(3)~~ shall apply  
 855 to bonds under this section.

856 Section 9. Section 713.24, Florida Statutes, is amended to  
 857 read:

858 713.24 Transfer of liens to security.-

859 (1) A ~~Any~~ lien claimed under this part may be transferred,  
 860 by a ~~any~~ person having an interest in the real property upon  
 861 which the lien is imposed or the contract under which the lien  
 862 is claimed, from such real property to other security by ~~either~~:

- 863 (a) Depositing in the clerk's office a sum of money; or
- 864 (b) Filing in the clerk's office a bond executed as surety  
 865 by a surety insurer licensed to do business in this state. or

866 (2) The security must either to be in an amount equal to

- 867 (a) The amount demanded in the ~~such~~ claim of lien; or
- 868 (b) Interest on the claim ~~thereon~~ at the legal rate for 3  
 869 years, plus \$1,000 or 25 percent of the amount demanded in the  
 870 claim of lien, whichever is greater, to apply on any attorney's

21-00364A-09

2009560\_\_

871 fees and court costs that may be taxed in any proceeding to  
872 enforce the said lien.

873 (3) The security ~~Such deposit or bond~~ shall be conditioned  
874 to pay any judgment or decree that ~~which~~ may be rendered for the  
875 satisfaction of the lien ~~for which such claim of lien was~~  
876 ~~recorded~~.

877 (4) A ~~Upon making such deposit or filing such bond,~~ the  
878 clerk who receives other security for a lien:

879 (a) Shall make and record a certificate showing the  
880 transfer of the lien from the real property to the security. The  
881 clerk and shall serve mail a copy of the certificate and a copy  
882 of the bond, if the lien was transferred to a bond, on thereof  
883 ~~by registered or certified mail to~~ the lienor named in the claim  
884 of lien ~~so transferred,~~ at the address stated in the claim  
885 ~~therein.~~ When Upon filing the certificate of transfer is  
886 recorded, the real property is ~~shall thereupon be~~ released from  
887 the lien claimed, and the such lien is ~~shall be~~ transferred to  
888 the other said security.

889 (b) May collect a service charge for making and serving the  
890 certificate, in the amount of up to \$20. The clerk may collect  
891 an additional charge of up to \$10 for each additional lien  
892 transferred to the security. The clerk shall receive the  
893 statutory service charges as prescribed in s. 28.24 for  
894 recording the certificate and approving the bond.

895 (5) In the absence of allegations of privity between the  
896 lienor and the owner, and subject to any order of the court  
897 increasing the amount required for the lien transfer deposit or  
898 bond, no other judgment or decree to pay money may be entered by  
899 the court against the owner. ~~The clerk shall be entitled to a~~

21-00364A-09

2009560\_\_

900 ~~service charge for making and serving the certificate, in the~~  
901 ~~amount of up to \$20. If the transaction involves the transfer of~~  
902 ~~multiple liens, an additional charge of up to \$10 for each~~  
903 ~~additional lien shall be charged. For recording the certificate~~  
904 ~~and approving the bond, the clerk shall receive her or his usual~~  
905 ~~statutory service charges as prescribed in s. 28.24. Any number~~  
906 ~~of liens may be transferred to one such security.~~

907 (6)~~(2)~~ Any excess of the security over the aggregate amount  
908 of any judgments or decrees rendered plus costs actually taxed  
909 shall be repaid to the party filing the same or her or his  
910 successor in interest. Any deposit of money shall be considered  
911 as paid into court and is ~~shall be~~ subject to the provisions of  
912 law relative to payments of money into court and the disposition  
913 of same.

914 (7)~~(3)~~ Any party having an interest in such security or the  
915 property from which the lien was transferred may at any time,  
916 and any number of times, file a complaint in chancery in the  
917 circuit court of the county where such security is deposited, or  
918 file a motion in a pending action to enforce a lien, for an  
919 order to require additional security, reduction of security,  
920 change or substitution of sureties, payment of discharge  
921 thereof, or any other matter affecting the ~~said~~ security. If the  
922 court finds that the amount of the deposit or bond in excess of  
923 the amount claimed in the claim of lien is insufficient to pay  
924 the lienor's attorney's fees and court costs incurred in the  
925 action to enforce the lien, the court must increase the amount  
926 of the cash deposit or lien transfer bond. ~~Nothing in~~ This  
927 section does not ~~shall be construed to~~ vest exclusive  
928 jurisdiction in the circuit courts over transfer bond claims for



21-00364A-09

2009560\_\_

929 nonpayment of an amount within the monetary jurisdiction of the  
930 county courts.

931 (8)~~(4)~~ If a proceeding to enforce a transferred lien is not  
932 commenced within the time specified in s. 713.22 or if it  
933 appears that the transferred lien has been satisfied of record,  
934 the clerk shall return the ~~said~~ security upon request of the  
935 person depositing or filing the same, or the insurer. If a  
936 proceeding to enforce a lien is commenced in a court of  
937 competent jurisdiction within the time specified in s. 713.22  
938 and, during such proceeding, the lien is transferred pursuant to  
939 this section or s. 713.13(1)(e), an action commenced within 1  
940 year after the transfer, unless otherwise shortened by operation  
941 of law, in the same county or circuit court to recover against  
942 the security shall be deemed to have been brought as of the date  
943 of filing the action to enforce the lien, and the court has  
944 ~~shall have~~ jurisdiction over the action.

945 Section 10. This act shall take effect October 1, 2009.