

By Senator Flores

39-01484-20

20201422__

1 A bill to be entitled
2 An act relating to construction liens; amending s.
3 713.01, F.S.; revising and deleting definitions;
4 amending s. 713.015, F.S.; revising the notice to
5 owner in certain direct contracts; revising
6 construction; amending s. 713.02, F.S.; deleting a
7 provision establishing the right of certain persons
8 who are not in privity with an owner to have a lien on
9 certain real property; deleting provisions authorizing
10 an owner and a contractor to agree upon the contractor
11 furnishing a payment bond; conforming provisions to
12 changes made by the act; amending s. 713.06, F.S.;
13 deleting provisions establishing the right of persons
14 who are not in privity with the owner to have a lien
15 on the owner's real property; revising provisions
16 relating to payments due under a direct contract;
17 revising the form of the required final payment
18 affidavit; revising provisions relating to the order
19 in which liens must be paid under a direct contract;
20 conforming provisions to changes made by the act;
21 repealing s. 713.23, F.S., relating to payment bonds;
22 repealing s. 713.235, F.S., relating to waivers of the
23 right to claim against payment bonds; repealing s.
24 713.245, F.S., relating to conditional payment bonds;
25 amending ss. 713.03, 713.04, 713.05, 713.07, 713.08,
26 713.10, 713.12, 713.13, 713.132, 713.135, 713.16,
27 713.165, 713.18, 713.20, 713.24, 713.29, 713.31,
28 713.345, 713.346, 713.3471, and 713.35, F.S.;

29 conforming provisions to changes made by the act and

39-01484-20

20201422__

30 making technical changes; amending ss. 713.22 and
 31 95.11, F.S.; conforming cross-references; providing an
 32 effective date.

33
 34 Be It Enacted by the Legislature of the State of Florida:

35
 36 Section 1. Present subsections (22) through (29) of section
 37 713.01, Florida Statutes, are redesignated as subsections (20)
 38 through (27), respectively, and subsections (8), (18), and (19)
 39 and present subsections (20) and (21) of that section are
 40 amended, to read:

41 713.01 Definitions.—As used in this part, the term:

42 (8) "Contractor" means a person other than a materialman or
 43 laborer who enters into a direct contract with the owner of real
 44 property for improving it, or who takes over from a contractor
 45 as so defined the entire remaining work under such direct
 46 contract. The term "contractor" includes an architect, landscape
 47 architect, or engineer who improves real property under ~~pursuant~~
 48 ~~to~~ a design-build contract authorized by s. 489.103(16).

49 (18) "Lienor" means a person who is:

- 50 (a) A contractor;
- 51 (b) A subcontractor;
- 52 (c) A sub-subcontractor;
- 53 (d) A laborer;
- 54 (e) A materialman ~~who contracts with the owner, a~~
 55 ~~contractor, a subcontractor, or a sub-subcontractor; or~~
- 56 (f) A professional lienor under s. 713.03, +

57
 58 ~~and~~ who has a direct contract with the owner and who has a lien

39-01484-20

20201422__

59 or prospective lien upon real property under this part, and
60 includes his or her successor in interest. No other person may
61 have a lien under this part.

62 ~~(19) "Lienor giving notice" means any lienor, except a~~
63 ~~contractor, who has duly and timely served a notice to the owner~~
64 ~~and, if required, to the contractor and subcontractor, as~~
65 ~~provided in s. 713.06(2).~~

66 (19)~~(20)~~ "Materialman" means any person who furnishes
67 materials to the owner under a direct contract or to the ~~owner,~~
68 contractor, subcontractor, or sub-subcontractor under contract
69 on the site of the improvement or for direct delivery to the
70 site of the improvement or, for specially fabricated materials,
71 off the site of the improvement for the particular improvement,
72 and who performs no labor in the installation thereof.

73 ~~(21) "Notice by lienor" means the notice to owner served as~~
74 ~~provided in s. 713.06(2).~~

75 Section 2. Section 713.015, Florida Statutes, is amended to
76 read:

77 713.015 Mandatory provisions for direct contracts.—

78 (1) Any direct contract greater than \$2,500 ~~between an~~
79 ~~owner and a contractor,~~ related to improvements to real property
80 consisting of single or multiple family dwellings up to and
81 including four units, must contain the following notice
82 provision printed in no less than 12-point, capitalized,
83 boldfaced type on the front page of the contract or on a
84 separate page, signed by the owner and dated:

85

86 ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-
87 713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR

39-01484-20

20201422__

88 PROVIDE MATERIALS AND SERVICES, HAVE A DIRECT CONTRACT WITH YOU,
 89 AND ARE NOT PAID IN FULL HAVE A RIGHT TO ENFORCE THEIR CLAIM FOR
 90 PAYMENT AGAINST YOUR PROPERTY. THIS CLAIM IS KNOWN AS A
 91 CONSTRUCTION LIEN. ~~IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS~~
 92 ~~TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS, OR MATERIAL~~
 93 ~~SUPPLIERS, THOSE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR~~
 94 ~~PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR~~
 95 ~~CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR~~
 96 CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF
 97 A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO
 98 PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOU ~~YOUR~~
 99 ~~CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT~~
 100 ~~YOURSELF, YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY~~
 101 ~~PAYMENT IS MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH~~
 102 ~~A WRITTEN RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS~~
 103 ~~PROVIDED TO YOU A "NOTICE TO OWNER."~~ FLORIDA'S CONSTRUCTION LIEN
 104 LAW IS COMPLEX, AND IT IS RECOMMENDED THAT YOU CONSULT AN
 105 ATTORNEY.

106 (2) (a) If the contract is written, the notice must be in
 107 the contract document. If the contract is oral or implied, the
 108 notice must be provided in a document referencing the contract.

109 (b) The failure to provide such written notice does not bar
 110 the enforcement of a lien against a person who has not been
 111 adversely affected.

112 (c) ~~This section may not be construed to adversely affect~~
 113 ~~the lien and bond rights of lienors who are not in privity with~~
 114 ~~the owner.~~ This section does not apply when the owner is a
 115 contractor licensed under chapter 489 or is a person who created
 116 parcels or offers parcels for sale or lease in the ordinary

39-01484-20

20201422__

117 course of business.

118 Section 3. Subsections (4) through (7) of section 713.02,
119 Florida Statutes, are amended to read:

120 713.02 Types of lienors and exemptions.—

121 ~~(4) Persons who are not in privity with an owner and who~~
122 ~~perform labor or services or furnish materials constituting a~~
123 ~~part of an improvement under the direct contract of another~~
124 ~~person shall have rights to a lien on real property as provided~~
125 ~~in s. 713.06.~~

126 (4)(5) Any improvement for which the direct contract price
127 is \$2,500 or less shall be exempt from all other provisions of
128 this part except the provisions of s. 713.05.

129 ~~(6) The owner and contractor may agree that the contractor~~
130 ~~shall furnish a payment bond as provided in s. 713.23, and upon~~
131 ~~receipt of the bond the owner is exempt from the other~~
132 ~~provisions of this part as to that direct contract, but this~~
133 ~~does not exempt the owner from the lien of the contractor who~~
134 ~~furnishes the bond. If the bond is provided, it shall secure all~~
135 ~~liens subsequently accruing under this part as provided in s.~~
136 ~~713.23.~~

137 (5)(7) Notwithstanding any other provision of this part, a
138 no lien may not shall exist in favor of any contractor,
139 subcontractor, or sub-subcontractor who is unlicensed as
140 provided in s. 489.128 or s. 489.532. Notwithstanding any other
141 provision of this part, if a contract is rendered unenforceable
142 by an unlicensed contractor, subcontractor, or sub-subcontractor
143 under pursuant to s. 489.128 or s. 489.532, such
144 unenforceability does shall not affect the rights of any other
145 persons in privity with the owner to enforce the contract or

39-01484-20

20201422__

146 ~~lien, or bond remedies and shall not affect the obligations of a~~
147 ~~surety that has provided a bond on behalf of the unlicensed~~
148 ~~contractor, subcontractor, or sub-subcontractor. It shall not be~~
149 ~~a defense to any claim on a bond or indemnity agreement that the~~
150 ~~principal or indemnitor is unlicensed as provided in s. 489.128~~
151 ~~or s. 489.532.~~

152 Section 4. Section 713.06, Florida Statutes, is amended to
153 read:

154 713.06 ~~Liens of persons not in privity;~~ Proper payments.-
155 ~~(1) A materialman or laborer, either of whom is not in~~
156 ~~privity with the owner, or a subcontractor or sub-subcontractor~~
157 ~~who complies with the provisions of this part and is subject to~~
158 ~~the limitations thereof, has a lien on the real property~~
159 ~~improved for any money that is owed to him or her for labor,~~
160 ~~services, or materials furnished in accordance with his or her~~
161 ~~contract and with the direct contract and for any unpaid finance~~
162 ~~charges due under the lienor's contract. A materialman or~~
163 ~~laborer, either of whom is not in privity with the owner, or a~~
164 ~~subcontractor or sub-subcontractor who complies with the~~
165 ~~provisions of this part and is subject to the limitations~~
166 ~~thereof, also has a lien on the owner's real property for labor,~~
167 ~~services, or materials furnished to improve public property if~~
168 ~~the improvement of the public property is furnished in~~
169 ~~accordance with his or her contract and with the direct~~
170 ~~contract. The total amount of all liens allowed under this part~~
171 ~~for furnishing labor, services, or material covered by any~~
172 ~~certain direct contract must not exceed the amount of the~~
173 ~~contract price fixed by the direct contract except as provided~~
174 ~~in subsection (3). No person may have a lien under this section~~

39-01484-20

20201422__

175 ~~except those lienors specified in it, as their designations are~~
176 ~~defined in s. 713.01.~~

177 ~~(2)(a) All lienors under this section, except laborers, as~~
178 ~~a prerequisite to perfecting a lien under this chapter and~~
179 ~~recording a claim of lien, must serve a notice on the owner~~
180 ~~setting forth the lienor's name and address, a description~~
181 ~~sufficient for identification of the real property, and the~~
182 ~~nature of the services or materials furnished or to be~~
183 ~~furnished. A sub-subcontractor or a materialman to a~~
184 ~~subcontractor must serve a copy of the notice on the contractor~~
185 ~~as a prerequisite to perfecting a lien under this chapter and~~
186 ~~recording a claim of lien. A materialman to a sub-subcontractor~~
187 ~~must serve a copy of the notice to owner on the contractor as a~~
188 ~~prerequisite to perfecting a lien under this chapter and~~
189 ~~recording a claim of lien. A materialman to a sub-subcontractor~~
190 ~~shall serve the notice to owner on the subcontractor if the~~
191 ~~materialman knows the name and address of the subcontractor. The~~
192 ~~notice must be served before commencing, or not later than 45~~
193 ~~days after commencing, to furnish his or her labor, services, or~~
194 ~~materials, but, in any event, before the date of the owner's~~
195 ~~disbursement of the final payment after the contractor has~~
196 ~~furnished the affidavit under subparagraph (3)(d)1. The notice~~
197 ~~must be served regardless of the method of payments by the~~
198 ~~owner, whether proper or improper, and does not give to the~~
199 ~~lienor serving the notice any priority over other lienors in the~~
200 ~~same category; and the failure to serve the notice, or to timely~~
201 ~~serve it, is a complete defense to enforcement of a lien by any~~
202 ~~person. The serving of the notice does not dispense with~~
203 ~~recording the claim of lien. The notice is not a lien, cloud, or~~

39-01484-20

20201422__

204 ~~encumbrance on the real property nor actual or constructive~~
205 ~~notice of any of them.~~

206 ~~(b) If the owner, in his or her notice of commencement, has~~
207 ~~designated a person in addition to himself or herself to receive~~
208 ~~a copy of such lienor's notice, as provided in s. 713.13(1)(b),~~
209 ~~the lienor shall serve a copy of his or her notice on the person~~
210 ~~so designated. The failure by the lienor to serve such copy,~~
211 ~~however, does not invalidate an otherwise valid lien.~~

212 ~~(c) The notice may be in substantially the following form~~
213 ~~and must include the information and the warning contained in~~
214 ~~the following form:~~

215
216 ~~WARNING! FLORIDA'S CONSTRUCTION LIEN LAW ALLOWS SOME~~
217 ~~UNPAID CONTRACTORS, SUBCONTRACTORS, AND MATERIAL~~
218 ~~SUPPLIERS TO FILE LIENS AGAINST YOUR PROPERTY EVEN IF~~
219 ~~YOU HAVE MADE PAYMENT IN FULL.~~

220
221 ~~UNDER FLORIDA LAW, YOUR FAILURE TO MAKE SURE THAT WE ARE PAID~~
222 ~~MAY RESULT IN A LIEN AGAINST YOUR PROPERTY AND YOUR PAYING~~
223 ~~TWICE.~~

224
225 ~~TO AVOID A LIEN AND PAYING TWICE, YOU MUST OBTAIN A WRITTEN~~
226 ~~RELEASE FROM US EVERY TIME YOU PAY YOUR CONTRACTOR.~~

227
228 ~~NOTICE TO OWNER~~

229
230 ~~To ... (Owner's name and address) ...~~

231
232 ~~The undersigned hereby informs you that he or she has furnished~~

39-01484-20

20201422__

233 ~~or is furnishing services or materials as follows:~~
 234 ~~... (General description of services or materials) ... for the~~
 235 ~~improvement of the real property identified as ... (property~~
 236 ~~description) ... under an order given by.....~~

237
 238 ~~Florida law prescribes the serving of this notice and restricts~~
 239 ~~your right to make payments under your contract in accordance~~
 240 ~~with Section 713.06, Florida Statutes.~~

241
 242 ~~IMPORTANT INFORMATION FOR~~
 243 ~~YOUR PROTECTION~~

244
 245 ~~Under Florida's laws, those who work on your property or~~
 246 ~~provide materials and are not paid have a right to enforce their~~
 247 ~~claim for payment against your property. This claim is known as~~
 248 ~~a construction lien.~~

249 ~~If your contractor fails to pay subcontractors or material~~
 250 ~~suppliers or neglects to make other legally required payments,~~
 251 ~~the people who are owed money may look to your property for~~
 252 ~~payment, EVEN IF YOU HAVE PAID YOUR CONTRACTOR IN FULL.~~

253
 254 ~~PROTECT YOURSELF:~~

255 ~~-RECOGNIZE that this Notice to Owner may result in a lien~~
 256 ~~against your property unless all those supplying a Notice to~~
 257 ~~Owner have been paid.~~

258 ~~-LEARN more about the Construction Lien Law, Chapter 713,~~
 259 ~~Part I, Florida Statutes, and the meaning of this notice by~~
 260 ~~contacting an attorney or the Florida Department of Business and~~
 261 ~~Professional Regulation.~~

39-01484-20

20201422__

~~... (Lienor's Signature) ...~~
~~... (Lienor's Name) ...~~
~~... (Lienor's Address) ...~~

~~Copies to: ... (Those persons listed in Section 713.06(2)(a) and (b), Florida Statutes) ...~~

~~The form may be combined with a notice to contractor given under s. 255.05 or s. 713.23 and, if so, may be entitled "NOTICE TO OWNER/NOTICE TO CONTRACTOR."~~

~~(d) A notice to an owner served on a lender must be in writing, must be served in accordance with s. 713.18, and shall be addressed to the persons designated, if any, and to the place and address designated in the notice of commencement. Any lender who, after receiving a notice provided under this subsection, pays a contractor on behalf of the owner for an improvement shall make proper payments as provided in paragraph (3)(c) as to each such notice received by the lender. The failure of a lender to comply with this paragraph renders the lender liable to the owner for all damages sustained by the owner as a result of that failure. This paragraph does not give any person other than an owner a claim or right of action against a lender for the failure of the lender to comply with this paragraph. Further, this paragraph does not prohibit a lender from disbursing construction funds at any time directly to the owner, in which event the lender has no obligation to make proper payments under this paragraph.~~

~~(e) A lienor, in the absence of a recorded notice of commencement, may rely on the information contained in the building permit application to serve the notice prescribed in~~

39-01484-20

20201422__

291 paragraphs (a), (b), and (c).

292 ~~(f) If a lienor has substantially complied with the~~
293 ~~provisions of paragraphs (a), (b), and (c), errors or omissions~~
294 ~~do not prevent the enforcement of a claim against a person who~~
295 ~~has not been adversely affected by such omission or error.~~
296 ~~However, a lienor must strictly comply with the time~~
297 ~~requirements of paragraph (a).~~

298 (1)~~(3)~~ The owner may make proper payments on the direct
299 contract as to lienors under this chapter section, in the
300 following manner:

301 (a) If the description of the property in the notice
302 prescribed by s. 713.13 is incorrect and the error adversely
303 affects any lienor, payments made on the direct contract shall
304 be held improperly paid to that lienor; but this does not apply
305 to clerical errors when the description listed covers the
306 property where the improvements are.

307 (b) The owner may pay to any laborers the whole or any part
308 of the amounts that are ~~shall then be~~ due and payable to them
309 respectively for labor or services performed by them and covered
310 by the direct contract, and shall deduct the same from the
311 balance due the contractor under a direct contract.

312 (c) When any payment becomes due to the lienor ~~contractor~~
313 on the direct contract, except the final payment:

314 1. The owner shall pay or cause to be paid, within the
315 specifications of the direct contract ~~limitations imposed by~~
316 ~~subparagraph 2.~~, the sum then due to each subcontractor, sub-
317 subcontractor, materialman, or laborer ~~lienor giving notice~~
318 ~~prior to the time of the payment~~. The owner may require, and, in
319 such event, the lienor ~~contractor~~ shall furnish as a

39-01484-20

20201422__

320 prerequisite to requiring payment to himself or herself, an
321 affidavit as prescribed in subparagraph (d)1.7 on any payment
322 made, or to be made, on a direct contract, ~~but the furnishing of~~
323 ~~the affidavit shall not relieve the owner of his or her~~
324 ~~responsibility to pay or cause to be paid all lienors giving~~
325 ~~notice. The owner shall be under no obligation to any lienor,~~
326 ~~except laborers, from whom he or she has not received a notice~~
327 ~~to owner at the time of making a payment.~~

328 ~~2. When the payment due is insufficient to pay all bills of~~
329 ~~lienors giving notice, the owner shall prorate the amount then~~
330 ~~due under the direct contract among the lienors giving notice~~
331 ~~pro rata in the manner prescribed in subsection (4). Lienors~~
332 ~~receiving money shall execute partial releases, as provided in~~
333 ~~s. 713.20(2), to the extent of the payment received.~~

334 ~~2.3. If any affidavit permitted hereunder recites any~~
335 ~~outstanding bills for labor, services, or materials, the owner~~
336 ~~may pay the bills in full direct to the person or firm to which~~
337 ~~they are due if the balance due on the direct contract at the~~
338 ~~time the affidavit is given is sufficient to pay the bills and~~
339 ~~shall deduct the amounts so paid from the balance of payment due~~
340 ~~the lienor contractor. This subparagraph shall not create any~~
341 ~~obligation of the owner to pay any person who is not a lienor~~
342 ~~giving notice.~~

343 ~~4. No person furnishing labor or material, or both, who is~~
344 ~~required to serve a notice under paragraph (2) (a) and who did~~
345 ~~not serve the notice and whose time for service has expired~~
346 ~~shall be entitled to be paid by the owner because he or she is~~
347 ~~listed in an affidavit furnished by the contractor under~~
348 ~~subparagraph (c)1.~~

39-01484-20

20201422__

349 ~~3.5.~~ If the contract is terminated before completion, the
 350 lienor ~~contractor~~ shall comply with subparagraph (d)1.

351 (d) When the final payment under a direct contract becomes
 352 due ~~the contractor~~:

353 1. The lienor ~~contractor~~ shall give to the owner a final
 354 payment affidavit ~~stating, if that be the fact, that all lienors~~
 355 ~~under his or her direct contract who have timely served a notice~~
 356 ~~to owner on the owner and the contractor have been paid in full~~
 357 ~~or, if the fact be otherwise, showing the name of each such~~
 358 ~~lienor who has not been paid in full and the amount due or to~~
 359 ~~become due each for labor, services, or materials furnished. The~~
 360 ~~affidavit must be~~ in substantially the following form:

361
 362 LIENOR'S ~~CONTRACTOR'S~~ FINAL PAYMENT AFFIDAVIT

363 State of Florida

364 County of

365 Before me, the undersigned authority, personally appeared
 366 ...(name of affiant)..., who, after being first duly sworn,
 367 deposes and says of his or her personal knowledge the following:

368 1. He or she is the ...(title of affiant)..., of ...(name
 369 of lienor's ~~contractor's~~ business)..., which does business in
 370 the State of Florida, hereinafter referred to as the "Lienor
 371 ~~Contractor.~~"

372 2. Lienor, ~~under Contractor~~, pursuant to a contract with
 373 ...(name of owner)..., hereinafter referred to as the "Owner,"
 374 has furnished or caused to be furnished labor, materials, and
 375 services for the construction of certain improvements to real
 376 property as more particularly set forth in said contract.

377 3. This affidavit is executed by the Lienor ~~Contractor~~ in

39-01484-20

20201422__

378 accordance with section 713.06 of the Florida Statutes for the
379 purposes of obtaining final payment from the Owner in the amount
380 of \$.....

381 4. All work to be performed under the direct contract has
382 been fully completed, and all bills for labor, services, or
383 materials ~~liens~~ under the direct contract have been paid in
384 full, except the following ~~listed~~ ~~lienors~~:

385 BILL OR INVOICE NUMBER ~~NAME OF LIENOR~~.....AMOUNT
386 DUE

387 Signed, sealed, and delivered this day of,,
388 By ... (name of affiant)...
389 ... (title of affiant)...
390 ... (name of lienor's ~~contractor's~~ business)...

391
392 Sworn to and subscribed before me this day of
393 by ... (name of affiant) ..., who is personally
394 known to me or produced as identification, and
395 did take an oath.

396
397 ... (name of notary public) ...

398 Notary Public

399 My Commission Expires:

400 ... (date of expiration of commission) ...

401
402 The lienor may not ~~contractor shall~~ have a ~~ne~~ lien or right of
403 action against the owner for labor, services, or materials
404 furnished under the direct contract while in default for not
405 giving the owner the affidavit; however, the negligent inclusion
406 or omission of any information in the affidavit which has not

39-01484-20

20201422__

407 prejudiced the owner does not constitute a default that operates
408 to defeat an otherwise valid lien. The lienor ~~contractor~~ shall
409 execute the affidavit and deliver it to the owner at least 5
410 days before instituting an action as a prerequisite to the
411 institution of any action to enforce his or her lien under this
412 chapter, even if the final payment has not become due because
413 the direct contract is terminated for a reason other than
414 completion and ~~regardless of whether the contractor has any~~
415 ~~lienors working under him or her or not.~~

416 2. If the lienor's ~~contractor's~~ affidavit required in this
417 subsection recites any outstanding bills for labor, services, or
418 materials, the owner may, after giving the lienor ~~contractor~~ at
419 least 10 days' written notice, pay such bills in full direct to
420 the person or firm to which they are due, if the balance due on
421 a direct contract at the time the affidavit is given is
422 sufficient to pay them and ~~lienors giving notice~~, and shall
423 deduct the amounts so paid from the balance due the lienor
424 ~~contractor. Lienors listed in said affidavit not giving notice,~~
425 ~~whose 45-day notice time has not expired, shall be paid in full~~
426 ~~or pro rata, as appropriate, from any balance then remaining due~~
427 ~~the contractor; but no lienor whose notice time has expired~~
428 ~~shall be paid by the owner or by any other person except the~~
429 ~~person with whom that lienor has a contract.~~

430 3. ~~If the balance due is not sufficient to pay in full all~~
431 ~~lienors listed in the affidavit and entitled to payment from the~~
432 ~~owner under this part and other lienors giving notice, the owner~~
433 ~~shall pay no money to anyone until such time as the contractor~~
434 ~~has furnished him or her with the difference; however, if the~~
435 ~~contractor fails to furnish the difference within 10 days from~~

39-01484-20

20201422__

436 ~~delivery of the affidavit or notice from the owner to the~~
437 ~~contractor to furnish the affidavit, the owner shall determine~~
438 ~~the amount due each lienor and shall disburse to them the~~
439 ~~amounts due from him or her on a direct contract in accordance~~
440 ~~with the procedure established by subsection (4).~~

441 3.4. The owner shall have the right to rely on the lienor's
442 ~~contractor's~~ affidavit given under this paragraph in making the
443 final payment, ~~unless there are lienors giving notice who are~~
444 ~~not listed in the affidavit. If there are lienors giving notice~~
445 ~~who are not so listed, the owner may pay such lienors and any~~
446 ~~persons listed in the affidavit that are entitled to be paid by~~
447 ~~the owner under subparagraph 2. and shall thereupon be~~
448 ~~discharged of any further responsibility under the direct~~
449 ~~contract, except for any balance that may be due to the~~
450 ~~contractor.~~

451 4.5. The owner shall retain and not disburse the final
452 payment due under the direct contract ~~that shall not be~~
453 ~~disbursed~~ until the lienor's ~~contractor's~~ affidavit under
454 subparagraph 1. has been furnished to the owner.

455 5.6. ~~If~~ When final payment has become due to the contractor
456 ~~and~~ the owner fails to withhold final payment when it becomes
457 due, as required by subparagraph 4.5., the property improved is
458 ~~shall be~~ subject to the full amount of all valid liens ~~of which~~
459 ~~the owner has notice~~ at the time the lienor ~~contractor~~ furnishes
460 his or her affidavit.

461 (e) If the improvement is abandoned before completion, the
462 owner shall determine the amount due each lienor ~~giving notice~~
463 and shall pay the same in full or prorate in the same manner as
464 provided in subsection (2) ~~(4)~~.

39-01484-20

20201422__

465 (f) A lienor does not ~~No contractor shall~~ have any right to
466 require the owner to pay any money to him or her under a direct
467 contract if such money cannot be properly paid by the owner to
468 the lienor ~~contractor~~ in accordance with this section.

469 (g) Except with written consent of the lienor ~~contractor~~,
470 before paying any money directly to any person or firm under
471 contract with the lienor ~~except the contractor or any laborer~~,
472 the owner shall give the lienor ~~contractor~~ at least 10 days'
473 written notice of his or her intention to do so, and the amount
474 he or she proposes to pay each person or firm ~~lienor~~.

475 (h) When the owner has properly retained all sums required
476 in this section to be retained but has otherwise made improper
477 payments, the owner's real property is ~~shall be~~ liable to all
478 lienors ~~laborers, subcontractors, sub-subcontractors, and~~
479 ~~materialmen~~ complying with this chapter only to the extent of
480 the retentions and the improper payments, notwithstanding the
481 other provisions of this subsection. Any money paid by the owner
482 on a direct contract, the payment of which is proved to have
483 caused no detriment to any certain lienor, is considered ~~shall~~
484 ~~be held~~ properly paid as to the lienor, and If any of the money
485 is considered ~~shall be held~~ not properly paid as to any other
486 lienors, the presumption that the money is not properly paid
487 goes ~~entire benefit of its being held not properly paid as to~~
488 ~~them shall go~~ to the lienors.

489 (2) (a) ~~(4) (a)~~ In determining the amounts for which Liens
490 between lienors claiming under a direct contract shall be paid
491 by the owner or allowed by the court within the total amount
492 fixed by the direct contract and under the provisions of this
493 section, the owner or court shall be paid ~~pay or allow~~ such

39-01484-20

20201422__

494 ~~liens~~ in the following order:

- 495 1. Liens of all laborers.
496 2. Liens of all persons other than the contractor.
497 3. Lien of the contractor.

498 (b) ~~Should the total amount for which liens under such~~
499 ~~direct contract may be allowed be less than the total amount of~~
500 ~~liens under such contract in all classes above mentioned, all~~
501 ~~liens in a class shall be allowed for their full amounts before~~
502 ~~any liens shall be allowed to any subsequent class. Should the~~
503 ~~amount applicable to the liens of any single class be~~
504 ~~insufficient to permit all liens within that class to be allowed~~
505 ~~for their full amounts, each lien shall be allowed for its pro~~
506 ~~rata share of the total amount applicable to liens of that~~
507 ~~class; but if the same labor, services, or materials shall be~~
508 ~~covered by liens of more than one class, such labor, services,~~
509 ~~or materials shall be allowed only in the earliest class by~~
510 ~~which they shall be covered; and also if the same labor,~~
511 ~~services, or materials shall be covered by liens of two or more~~
512 ~~lienors of the same class, such labor, services, or materials~~
513 ~~shall be allowed only in the lien of the lienor farthest removed~~
514 ~~from the contractor. This section does shall not be construed to~~
515 ~~affect the priority of liens derived under separate direct~~
516 ~~contracts.~~

517 Section 5. Section 713.23, Florida Statutes, is repealed.

518 Section 6. Section 713.235, Florida Statutes, is repealed.

519 Section 7. Section 713.245, Florida Statutes, is repealed.

520 Section 8. Subsections (1) and (3) of section 713.03,

521 Florida Statutes, are amended to read:

522 713.03 Liens for professional services.-

39-01484-20

20201422__

523 (1) Any person who performs services as architect,
524 landscape architect, interior designer, engineer, or surveyor
525 and mapper, subject to compliance with and the limitations
526 imposed by this part, has a lien on the real property improved
527 for any money that is owing to him or her for his or her
528 services used in connection with improving the real property or
529 for his or her services in supervising any portion of the work
530 of improving the real property, rendered in accordance with his
531 or her ~~contract and with the~~ direct contract.

532 (3) A lien ~~No liens~~ under this section may not ~~shall~~ be
533 acquired until a claim of lien is recorded. A ~~No~~ lienor under
534 this section is not ~~shall~~ be required to serve a ~~notice to owner~~
535 ~~as provided in s. 713.06(2) or an affidavit concerning unpaid~~
536 ~~lienors as provided in s. 713.06(1) s. 713.06(3).~~

537 Section 9. Section 713.04, Florida Statutes, is amended to
538 read:

539 713.04 Subdivision improvements.-

540 (1) Any lienor who, ~~regardless of privity,~~ performs
541 services or furnishes material to real property for the purpose
542 of making it suitable as the site for the construction of an
543 improvement or improvements is ~~shall~~ be entitled to a lien on
544 the real property for any money that is owed to her or him for
545 her or his services or materials furnished in accordance with
546 her or his ~~contract and the~~ direct contract. The total amount of
547 liens allowed under this section may ~~shall~~ not exceed the amount
548 of the direct contract under which the lienor furnishes labor,
549 materials, or services. The work of making real property
550 suitable as the site of an improvement includes, ~~shall include~~
551 but is not ~~shall not be~~ limited to, the grading, leveling,

39-01484-20

20201422__

552 excavating, and filling of land, including the furnishing of
553 fill soil; the grading and paving of streets, curbs, and
554 sidewalks; the construction of ditches and other area drainage
555 facilities; the laying of pipes and conduits for water, gas,
556 electric, sewage, and drainage purposes; and the construction of
557 canals and shall also include the altering, repairing, and
558 redoing of all these things. When the services or materials are
559 placed on land dedicated to public use and are furnished under
560 contract with the owner of the abutting land, the cost of the
561 services and materials, if unpaid, may be the basis for a lien
562 upon the abutting land. When the services or materials are
563 placed upon land under contract with the owner of the land who
564 subsequently dedicates parts of the land to public use, the
565 person furnishing the services or materials placed upon the
566 dedicated land is ~~shall be~~ entitled to a lien upon the land
567 abutting the dedicated land for the unpaid cost of the services
568 and materials placed upon the dedicated land, or in the case of
569 improvements that serve or benefit real property that is divided
570 by the improvements, to a lien upon each abutting part for the
571 equitable part of the full amount due and owing. If the part of
572 the cost to be borne by each parcel of the land subject to the
573 same lien is not specified in the contract, it shall be prorated
574 equitably among the parcels served or benefited. A ~~No~~ lien under
575 this section may not ~~shall~~ be acquired until a claim of lien is
576 recorded. A ~~No~~ notice of commencement is not required ~~shall be~~
577 ~~filed~~ for liens under this section. ~~No lienor shall be required~~
578 ~~to serve a notice to owner for liens under this section.~~

579 ~~(2) If a lienor under this section who is not in privity~~
580 ~~with the owner serves a notice on the owner in accordance with~~

39-01484-20

20201422__

581 ~~the provisions of s. 713.06(2), payment of lienors by the owner~~
582 ~~under this section shall be governed by s. 713.06(3)(c), (d),~~
583 ~~(e), (f), (g), (h), and (4).~~

584 (2)~~(3)~~ The owner may ~~shall~~ not pay any money on account of
585 a direct contract before actual furnishing of labor and services
586 or materials for subdivision improvements. Any payment not
587 complying with such requirement does ~~shall~~ not qualify as a
588 proper payment under this chapter.

589 (3)~~(4)~~ The owner shall make final payment on account of a
590 direct contract only after the lienor ~~contractor~~ complies with
591 s. 713.06(1)(d) ~~s. 713.06(3)(d)~~. Any payment not complying with
592 such requirement does ~~shall~~ not qualify as a proper payment
593 under this chapter.

594 Section 10. Section 713.05, Florida Statutes, is amended to
595 read:

596 713.05 Liens of persons in privity.—A lienor with a direct
597 contract and who is therefore materialman or laborer, ~~either of~~
598 ~~whom is~~ in privity with the owner, ~~or a contractor~~ who complies
599 with ~~the provisions of~~ this part shall, subject to the
600 limitations thereof, have a lien on the real property improved
601 for any money that is owed to him or her for labor, services,
602 materials, or other items required by, or furnished in
603 accordance with, the direct contract and for unpaid finance
604 charges due under the direct lienor's contract, if any. A lienor
605 ~~materialman or laborer,~~ in privity with the owner, ~~or a~~
606 ~~contractor~~ shall also have a lien on the owner's real property
607 for any money that is owed to him or her for labor, services, or
608 materials furnished to improve public property if the
609 improvements to the public property are a condition of the

39-01484-20

20201422__

610 permit to improve the owner's real property. ~~A No~~ A lien under
 611 this section ~~may not shall~~ be acquired until a claim of lien is
 612 recorded. A lienor who is, ~~as a subcontractor, sub-~~
 613 ~~subcontractor, laborer, or materialman~~ not in privity with the
 614 owner ~~who~~, commences to furnish labor, services, or materials
 615 ~~material~~ to an improvement and who thereafter becomes in privity
 616 with the owner has ~~shall~~ have a lien for any money that is owed
 617 to him or her for the labor, services, or materials furnished
 618 after he or she becomes in privity with the owner. ~~A lienor may~~
 619 ~~record one claim of lien to cover both his or her work done in~~
 620 ~~privity with the owner and not in privity with the owner. No~~
 621 ~~lienor under this section shall be required to serve a notice to~~
 622 ~~owner as provided in s. 713.06(2). A lienor, except a laborer or~~
 623 ~~materialman, who is in privity with the owner and claims a lien~~
 624 under this section shall furnish the lienor's contractor's
 625 affidavit required in s. 713.06(1)(d) ~~s. 713.06(3)(d)~~. A
 626 ~~contractor may claim a lien for any labor, services, or~~
 627 ~~materials furnished by another lienor for which he or she is~~
 628 ~~obligated to pay the lienor, regardless of the right of the~~
 629 ~~lienor to claim a lien; but, if the lienor claims a valid lien,~~
 630 ~~the contractor shall not recover the amount of the lien~~
 631 ~~recovered by the lienor, and the amount of the contractor's~~
 632 ~~claim of lien may be reduced accordingly by court order. No~~
 633 ~~person shall have a lien under this section except those lienors~~
 634 ~~specified in it, as their designations are defined in s. 713.01.~~

635 Section 11. Section 713.07, Florida Statutes, is amended to
 636 read:

637 713.07 Priority of liens.—

638 (1) Liens under ss. 713.03 and 713.04 ~~shall~~ attach at the

39-01484-20

20201422__

639 time of recordation of the claim of lien and ~~shall~~ take priority
640 as of that time.

641 (2) Liens under s. 713.05 ~~ss. 713.05 and 713.06 shall~~
642 attach and take priority as of the time of recordation of the
643 notice of commencement, but in the event a notice of
644 commencement is not filed, ~~then~~ such liens ~~shall~~ attach and take
645 priority as of the time the claim of lien is recorded.

646 (3) All such liens ~~shall~~ have priority over any conveyance,
647 encumbrance, or demand not recorded against the real property
648 before ~~prior to~~ the time such lien attached as provided herein,
649 but any conveyance, encumbrance, or demand recorded before ~~prior~~
650 ~~to~~ the time such lien attaches and any proceeds thereof,
651 regardless of when disbursed, ~~shall~~ have priority over such
652 liens.

653 (4) If construction ceases or the direct contract is
654 terminated before completion and the owner desires to recommence
655 construction, he or she may pay all lienors in full or pro rata
656 in accordance with s. 713.06(2) before ~~s. 713.06(4) prior to~~
657 recommencement, in which event all liens for the recommenced
658 construction ~~shall~~ take priority from such recommencement; or
659 the owner may record an affidavit in the clerk's office stating
660 his or her intention to recommence construction and that all
661 lienors ~~giving notice~~ have been paid in full except those listed
662 therein as not having been so paid, in which event 30 days after
663 such recording, ~~the~~ rights of any person acquiring any interest,
664 lien, or encumbrance on said property or of any lienor on the
665 recommenced construction is ~~shall be~~ paramount to any lien on
666 the prior construction unless such prior lienor records a claim
667 of lien within said 30-day period. A copy of said affidavit

39-01484-20

20201422__

668 shall be served on each lienor named therein. Before
669 recommencing, the owner shall record and post a notice of
670 commencement for the recommenced construction, as provided in s.
671 713.13.

672 Section 12. Subsections (1) and (3) of section 713.08,
673 Florida Statutes, are amended to read:

674 713.08 Claim of lien.—

675 (1) For the purpose of perfecting her or his lien under
676 this part, every lienor, ~~including laborers and persons in~~
677 ~~privity,~~ shall record a claim of lien which shall state:

678 (a) The name of the lienor and the address where notices or
679 process under this part may be served on the lienor.

680 ~~(b) The name of the person with whom the lienor contracted~~
681 ~~or by whom she or he was employed.~~

682 (b)(e) The labor, services, or materials furnished and the
683 contract price or value thereof. Materials specially fabricated
684 at a place other than the site of the improvement for
685 incorporation in the improvement but not so incorporated and the
686 contract price or value thereof shall be separately stated in
687 the claim of lien.

688 (c)(d) A description of the real property sufficient for
689 identification.

690 (d)(e) The name of the owner.

691 (e)(f) The time when the first and the last item of labor,
692 services, ~~or service~~ or materials was furnished.

693 (f)(g) The amount unpaid the lienor for such labor, ~~or~~
694 services, or materials and for unpaid finance charges due under
695 the lienor's direct contract.

696 ~~(h) If the lien is claimed by a person not in privity with~~

39-01484-20

20201422__

697 ~~the owner, the date and method of service of the notice to~~
 698 ~~owner. If the lien is claimed by a person not in privity with~~
 699 ~~the contractor or subcontractor, the date and method of service~~
 700 ~~of the copy of the notice on the contractor or subcontractor.~~

701 (3) The claim of lien shall be sufficient if it is in
 702 substantially the following form, and includes the following
 703 warning:

704
 705 WARNING!

706 THIS LEGAL DOCUMENT REFLECTS THAT A CONSTRUCTION LIEN
 707 HAS BEEN PLACED ON THE REAL PROPERTY LISTED HEREIN.
 708 UNLESS THE OWNER OF SUCH PROPERTY TAKES ACTION TO
 709 SHORTEN THE TIME PERIOD, THIS LIEN MAY REMAIN VALID
 710 FOR ONE YEAR FROM THE DATE OF RECORDING, AND SHALL
 711 EXPIRE AND BECOME NULL AND VOID THEREAFTER UNLESS
 712 LEGAL PROCEEDINGS HAVE BEEN COMMENCED TO FORECLOSE OR
 713 TO DISCHARGE THIS LIEN.

714
 715 CLAIM OF LIEN

716 State of

717 County of

718 Before me, the undersigned notary public, personally
 719 appeared, who was duly sworn and says that she or he is
 720 (the lienor herein) (the agent of the lienor herein), whose
 721 address is; and that in accordance with a contract with
 722, lienor furnished labor, services, or materials consisting
 723 of on the following described real property in County,
 724 Florida:

39-01484-20

20201422__

726 (Legal description of real property)
 727
 728 owned by of a total value of \$...., of which there remains
 729 unpaid \$...., and furnished the first of the items on,
 730 ... (year) ..., and the last of the items on, ... (year) ...
 731 and ~~(if the lien is claimed by one not in privity with the~~
 732 ~~owner) that the lienor served her or his notice to owner on~~
 733 ~~...., ... (year) ..., by; and (if required) that the lienor~~
 734 ~~served copies of the notice on the contractor on,~~
 735 ~~... (year) ..., by and on the subcontractor,, on,~~
 736 ~~... (year) ..., by~~
 737 ... (Signature) ...

738
 739 Sworn to (or affirmed) and subscribed before me this
 740 day of, ... (year) ..., by ... (name of person making
 741 statement)

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

744
 745 Personally Known OR Produced Identification
 746
 747 Type of Identification Produced.....

748
 749 However, the negligent inclusion or omission of any information
 750 in the claim of lien which has not prejudiced the owner does not
 751 constitute a default that operates to defeat an otherwise valid
 752 lien.

753 Section 13. Paragraph (a) of subsection (2) and subsection
 754 (3) of section 713.10, Florida Statutes, are amended to read:

39-01484-20

20201422__

755 713.10 Extent of liens.—

756 (2) (a) When the lease expressly provides that the interest
757 of the lessor shall not be subject to liens for improvements
758 made by the lessee, the lessee shall notify the lienor
759 ~~contractor~~ making any such improvements of such provision or
760 provisions in the lease, and the knowing or willful failure of
761 the lessee to provide such notice to the lienor ~~contractor~~ shall
762 render the contract between the lessee and the lienor ~~contractor~~
763 voidable at the option of the lienor ~~contractor~~.

764 (3) Any ~~contractor~~ or lienor under contract to furnish
765 labor, services, or materials for improvements being made by a
766 lessee may serve written demand on the lessor for a copy of the
767 provision in the lease prohibiting liability for improvements
768 made by the lessee, which copy shall be verified under s.
769 92.525. The demand must identify the lessee and the premises
770 being improved ~~and must be in a document that is separate from~~
771 ~~the notice to the owner as provided in s. 713.06(2)~~. The
772 interest of any lessor who does not serve a verified copy of the
773 lease provision within 30 days after demand, or who serves a
774 false or fraudulent copy, is subject to a lien under this part
775 by the ~~contractor~~ or lienor who made the demand if the
776 ~~contractor~~ or lienor has otherwise complied with this part and
777 did not have actual notice that the interest of the lessor was
778 not subject to a lien for improvements made by the lessee. The
779 written demand must include a warning in conspicuous type in
780 substantially the following form:

781

782

WARNING

783

39-01484-20

20201422__

784 YOUR FAILURE TO SERVE THE REQUESTED VERIFIED COPY
785 WITHIN 30 DAYS OR THE SERVICE OF A FALSE COPY MAY
786 RESULT IN YOUR PROPERTY BEING SUBJECT TO THE CLAIM OF
787 LIEN OF THE PERSON REQUESTING THE VERIFIED COPY.

788 Section 14. Section 713.12, Florida Statutes, is amended to
789 read:

790 713.12 Liens for improving real property under contract
791 with husband or wife on property of the other or of both.—When
792 the direct contract for improving real property is made with a
793 husband or wife who is not separated and living apart from his
794 or her spouse and the property is owned by the other or by both,
795 the spouse who contracts is considered ~~shall be deemed to be~~ the
796 agent of the other to the extent of subjecting the right, title,
797 or interest of the other in said property to liens under this
798 part unless such other gives ~~shall~~, within 10 days after
799 learning of such contract, ~~give~~ the lienor, ~~contractor~~ and
800 records ~~record~~ in the clerk's office, notice of his or her
801 objection thereto.

802 Section 15. Subsection (1) and paragraph (b) of subsection
803 (5) of section 713.13, Florida Statutes, are amended to read:

804 713.13 Notice of commencement.—

805 (1) (a) Except for an improvement that is exempt under s.
806 713.02(4) ~~pursuant to s. 713.02(5)~~, an owner or the owner's
807 authorized agent before actually commencing to improve any real
808 property, or recommencing completion of any improvement after
809 default or abandonment, ~~whether or not a project has a payment~~
810 ~~bond complying with s. 713.23~~, shall record a notice of
811 commencement in the clerk's office and ~~forthwith~~ post either a
812 certified copy thereof or a notarized statement that the notice

39-01484-20

20201422__

813 of commencement has been filed for recording along with a copy
814 thereof. The notice of commencement shall contain the following
815 information:

816 1. A description sufficient for identification of the real
817 property to be improved. The description should include the
818 legal description of the property and also should include the
819 street address and tax folio number of the property, if
820 available, or, if a ~~there is no~~ street address is not available,
821 such additional information as will describe the physical
822 location of the real property to be improved.

823 2. A general description of the improvement.

824 3. The name and address of the owner, the owner's interest
825 in the site of the improvement, and the name and address of the
826 fee simple titleholder, if other than such owner. A lessee who
827 contracts for the improvements is an owner as defined in s.
828 713.01 ~~under s. 713.01(23)~~ and must be listed as the owner
829 together with a statement that the ownership interest is a
830 leasehold interest.

831 4. The name and address of any potential lienors ~~the~~
832 ~~contractor~~.

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

835 ~~5.6.~~ The name and address of any person making a loan for
836 the construction of the improvements.

837 ~~6.7.~~ The name and address within the state of a person
838 other than himself or herself who may be designated by the owner
839 as the person upon whom notices or other documents may be served
840 under this part. ~~;~~ and Service upon the person so designated
841 constitutes service upon the owner.

39-01484-20

20201422__

842 ~~(b) The owner, at his or her option, may designate a person~~
 843 ~~in addition to himself or herself to receive a copy of the~~
 844 ~~lienor's notice as provided in s. 713.06(2)(b), and if he or she~~
 845 ~~does so, the name and address of such person must be included in~~
 846 ~~the notice of commencement.~~

847 (b)~~(e)~~ If the contract between the owner and a lienor
 848 ~~contractor~~ named in the notice of commencement expresses a
 849 period of time for completion ~~for the construction~~ of the
 850 improvement that is greater than 1 year, the notice of
 851 commencement must state that it is effective for a period of 1
 852 year plus any such additional period of time. Any payments made
 853 by the owner after the expiration of the notice of commencement
 854 are considered improper payments.

855 (c)~~(d)~~ A notice of commencement must be in substantially
 856 the following form:

857
 858 Permit No..... Tax Folio No.....

859 NOTICE OF COMMENCEMENT

860 State of....

861 County of....

862
 863 The undersigned hereby gives notice that improvement will be
 864 made to certain real property, and in accordance with Chapter
 865 713, Florida Statutes, the following information is provided in
 866 this Notice of Commencement.

867 1. Description of property: ... (legal description ~~of the~~
 868 ~~property~~, and street address of the property, if available)....

869 2. General description of improvement:.....

870 3. Owner information or Lessee information if the Lessee

39-01484-20

20201422__

871 contracted for the improvement:

872 a. Name and address:.....

873 b. Interest in property:.....

874 c. Name and address of fee simple titleholder (if different

875 from Owner listed above):.....

876 4.a. Lienors Contractor: ...(name and address)....

877 b. Lienors' Contractor's phone number:.....

878 ~~5. Surety (if applicable, a copy of the payment bond is~~

879 ~~attached):~~

880 ~~a. Name and address:.....~~

881 ~~b. Phone number:.....~~

882 ~~e. Amount of bond: \$.....~~

883 5.a.6.a. Lender: ...(name and address)....

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

885 ~~6.7.~~ Persons within the State of Florida designated by

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

887 provided by Section 713.13(1)(a)6. ~~713.13(1)(a)7.~~, Florida

888 Statutes:

889 a. Names and addresses of designated persons ~~Name and~~

890 ~~address:.....~~

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

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

893 ~~..... of to receive a copy of the Lienor's~~

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

895 ~~b. Phone number of person or entity designated by~~

896 ~~owner:.....~~

897 ~~7.9.~~ Expiration date of notice of commencement (the

898 expiration date will be 1 year after ~~from~~ the date of recording,

899 unless a different date is specified).....

39-01484-20

20201422__

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

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

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

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

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

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

Personally Known OR Produced Identification

Type of Identification Produced.....

39-01484-20

20201422__

929

930 ~~(e) A copy of any payment bond must be attached at the time~~
931 ~~of recordation of the notice of commencement. The failure to~~
932 ~~attach a copy of the bond to the notice of commencement when the~~
933 ~~notice is recorded negates the exemption provided in s.~~
934 ~~713.02(6). However, if a payment bond under s. 713.23 exists but~~
935 ~~was not attached at the time of recordation of the notice of~~
936 ~~commencement, the bond may be used to transfer any recorded lien~~
937 ~~of a lienor except that of the contractor by the recordation and~~
938 ~~service of a notice of bond pursuant to s. 713.23(2). The notice~~
939 ~~requirements of s. 713.23 apply to any claim against the bond;~~
940 ~~however, the time limits for serving any required notices shall,~~
941 ~~at the option of the lienor, be calculated from the dates~~
942 ~~specified in s. 713.23 or the date the notice of bond is served~~
943 ~~on the lienor.~~

944 (d)~~(f)~~ The giving of a notice of commencement is effective
945 upon the filing of the notice in the clerk's office.

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

948 (5)

949 (b) The amended notice must identify the official records
950 book and page where the original notice of commencement is
951 recorded, and a copy of the amended notice must be served by the
952 owner upon ~~the contractor and each lienor who serves notice~~
953 before or within 30 days after the date on which the amended
954 notice is recorded.

955 Section 16. Paragraph (f) of subsection (1) and subsections
956 (2), (3), and (4) of section 713.132, Florida Statutes, are
957 amended to read:

39-01484-20

20201422__

958 713.132 Notice of termination.—

959 (1) An owner may terminate the period of effectiveness of a
960 notice of commencement by executing, swearing to, and recording
961 a notice of termination that contains:

962 (f) A statement that the owner has, before recording the
963 notice of termination, served a copy of the notice of
964 termination on ~~the contractor and on~~ each lienor who has a
965 direct contract with the owner ~~or who has served a notice to~~
966 ~~owner~~. The owner is not required to serve a copy of the notice
967 of termination on any lienor who has executed a waiver and
968 release of lien upon final payment in accordance with s. 713.20.

969 (2) An owner has the right to rely on a lienor's
970 ~~contractor's~~ affidavit given under s. 713.06(1)(d) ~~s.~~
971 ~~713.06(3)(d)~~, ~~except with respect to lienors who have already~~
972 ~~given notice,~~ in connection with the execution, swearing to, and
973 recording of a notice of termination. However, the notice of
974 termination must be accompanied by the contractor's affidavit.

975 (3) An owner may not record a notice of termination except
976 after completion of construction~~,~~ or after construction ceases
977 before completion and all lienors have been paid in full or pro
978 rata in accordance with s. 713.06(2) ~~s. 713.06(4)~~. If an owner
979 or a contractor, by fraud or collusion, knowingly makes any
980 fraudulent statement or affidavit in a notice of termination or
981 any accompanying affidavit, the owner and the contractor, or
982 either of them, as the case may be, is liable to any lienor who
983 suffers damages as a result of the filing of the fraudulent
984 notice of termination,~~+~~ and any such lienor has a right of
985 action for damages occasioned thereby.

986 (4) A notice of termination is effective to terminate the

39-01484-20

20201422__

987 notice of commencement at the later of 30 days after recording
988 of the notice of termination or the date stated in the notice of
989 termination as the date on which the notice of commencement is
990 terminated, if the notice of termination has been served
991 pursuant to paragraph (1) (f) on ~~the contractor and on each~~
992 ~~lienor who has a direct contract with the owner or who has~~
993 ~~served a notice to owner.~~

994 Section 17. Paragraphs (b) and (d) of subsection (1) and
995 paragraph (a) of subsection (6) of section 713.135, Florida
996 Statutes, are amended to read:

997 713.135 Notice of commencement and applicability of lien.-

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

1000 (b) Provide the applicant and the owner of the real
1001 property upon which improvements are to be constructed with a
1002 printed statement stating that the right, title, and interest of
1003 the person who has contracted for the improvement may be subject
1004 to attachment under the Construction Lien Law. The Department of
1005 Business and Professional Regulation shall furnish, for
1006 distribution, the statement described in this paragraph, and the
1007 statement must be a summary of the Construction Lien Law and
1008 must include an explanation of the provisions of the
1009 Construction Lien Law relating to the recording, and the posting
1010 of copies, of notices of commencement and a statement
1011 encouraging the owner to record a notice of commencement and
1012 post a copy of the notice of commencement in accordance with s.
1013 713.13. The statement must also contain an explanation of the
1014 owner's rights ~~if a lienor fails to furnish the owner with a~~
1015 ~~notice as provided in s. 713.06(2) and an explanation of the~~

39-01484-20

20201422__

1016 ~~owner's rights~~ as provided in s. 713.22. The authority that
1017 issues the building permit must obtain from the Department of
1018 Business and Professional Regulation the statement required by
1019 this paragraph and must mail, deliver by electronic mail or
1020 other electronic format or facsimile, or personally deliver that
1021 statement to the owner or, in a case in which the owner is
1022 required to personally appear to obtain the permit, provide that
1023 statement to any owner making improvements to real property
1024 consisting of a single or multiple family dwelling up to and
1025 including four units. However, the failure by the authorities to
1026 provide the summary does not subject the issuing authority to
1027 liability.

1028 (d) Furnish to the applicant two or more copies of a form
1029 of notice of commencement conforming with s. 713.13. If the
1030 direct contract is greater than \$2,500, the applicant shall file
1031 with the issuing authority before ~~prior to~~ the first inspection
1032 either a certified copy of the recorded notice of commencement
1033 or a notarized statement that the notice of commencement has
1034 been filed for recording, along with a copy thereof. In the
1035 absence of the filing of a certified copy of the recorded notice
1036 of commencement, the issuing authority or a private provider
1037 performing inspection services may not perform or approve
1038 subsequent inspections until the applicant files by mail,
1039 facsimile, hand delivery, or any other means such certified copy
1040 with the issuing authority. The certified copy of the notice of
1041 commencement must contain the name and address of the owner, the
1042 name and address of any lienors ~~the contractor~~, and the location
1043 or address of the property being improved. The issuing authority
1044 shall verify that the name and address of the owner, the name of

39-01484-20

20201422__

1045 any lienors ~~the contractor~~, and the location or address of the
 1046 property being improved which is contained in the certified copy
 1047 of the notice of commencement is consistent with the information
 1048 in the building permit application. The issuing authority shall
 1049 provide the recording information on the certified copy of the
 1050 recorded notice of commencement to any person upon request. This
 1051 subsection does not require the recording of a notice of
 1052 commencement before ~~prior to~~ the issuance of a building permit.
 1053 If a local government requires a separate permit or inspection
 1054 for installation of temporary electrical service or other
 1055 temporary utility service, land clearing, or other preliminary
 1056 site work, such permits may be issued and such inspections may
 1057 be conducted without providing the issuing authority with a
 1058 certified copy of a recorded notice of commencement or a
 1059 notarized statement regarding a recorded notice of commencement.
 1060 This subsection does not apply to a direct contract to repair or
 1061 replace an existing heating or air-conditioning system in an
 1062 amount less than \$7,500.

1063 (6) (a) In addition to any other information required by the
 1064 authority issuing the permit, the building permit application
 1065 must be in substantially the following form:

1066
 1067 Tax Folio No.....
 1068 BUILDING PERMIT APPLICATION
 1069
 1070 Owner's Name.....
 1071 Owner's Address.....
 1072 Fee Simple Titleholder's Name (If other than owner).....
 1073 Fee Simple Titleholder's Address (If other than owner).....

39-01484-20 20201422__

1074 City.....

1075 State..... Zip.....

1076 Lienors' Names ~~Contractor's Name~~.....

1077 Lienors' Addresses ~~Contractor's Address~~.....

1078 City.....

1079 State..... Zip.....

1080 Job Name.....

1081 Job Address.....

1082 City..... County.....

1083 Legal Description.....

1084 ~~Bonding Company~~.....

1085 ~~Bonding Company Address~~.....

1086 ~~City..... State.....~~

1087 Architect/Engineer's Name.....

1088 Architect/Engineer's Address.....

1089 Mortgage Lender's Name.....

1090 Mortgage Lender's Address.....

1092 Application is hereby made to obtain a permit to do the

1093 work and installations as indicated. I certify that ~~no~~ work or

1094 installation has not commenced before ~~prior to~~ the issuance of a

1095 permit and that all work will be performed to meet the standards

1096 of all laws regulating construction in this jurisdiction. I

1097 understand that a separate permit must be secured for ELECTRICAL

1098 WORK, PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,

1099 TANKS, and AIR CONDITIONERS, etc.

1101 OWNER'S AFFIDAVIT: I certify that all the foregoing information

1102 is accurate and that all work will be done in compliance with

39-01484-20

20201422__

1103 all applicable laws regulating construction and zoning.

1104

1105 WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF
1106 COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR
1107 IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF
1108 COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB
1109 SITE BEFORE THE FIRST INSPECTION.

1110

1111 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR
1112 LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR
1113 RECORDING YOUR NOTICE OF COMMENCEMENT.

1114

1115 ... (Signature of Owner or Agent) ...

1116

1117 ... (including any lienors ~~contractor~~) ...

1118

1119 STATE OF FLORIDA

1120 COUNTY OF

1121

1122 Sworn to (or affirmed) and subscribed before me this
1123 day of, ... (year) ..., by ... (name of person making
1124 statement)

1125

1126 ... (Signature of Notary Public - State of Florida) ...

1127 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

1128

1129 Personally Known OR Produced Identification

1130

1131 Type of Identification Produced.....

39-01484-20

20201422__

1132 ... (Signature of any lienors ~~Contractor~~) ...

1133

1134 STATE OF FLORIDA

1135 COUNTY OF

1136

1137 Sworn to (or affirmed) and subscribed before me this

1138 day of, ... (year) ..., by ... (name of person making

1139 statement)

1140 ... (Signature of Notary Public - State of Florida) ...

1141 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

1142

1143 Personally Known OR Produced Identification

1144

1145 Type of Identification Produced.....

1146

1147 (Certificate of Competency Holder)

1148

1149 Lienor's ~~Contractor's~~ State Certification or Registration

1150 No.....

1151

1152 Lienor's ~~Contractor's~~ Certificate of Competency No.....

1153

1154 APPLICATION APPROVED BY

1155Permit Officer

1156 Section 18. Section 713.16, Florida Statutes, is amended to

1157 read:

1158 713.16 Demand for copy of direct contract and statement

1159 ~~statements~~ of account; form.-

1160 (1) A copy of the direct contract of a lienor or owner and

39-01484-20

20201422__

1161 a statement of the amount due or to become due if fixed or
1162 ascertainable thereon must be furnished by any party thereto,
1163 upon written demand of an owner or a lienor contracting with or
1164 employed by the other party to such direct contract. If the
1165 owner or lienor refuses or neglects to furnish such copy of the
1166 direct contract or such statement, or willfully and falsely
1167 states the amount due or to become due if fixed or ascertainable
1168 under such direct contract, any person who suffers any detriment
1169 thereby has a cause of action against the person refusing or
1170 neglecting to furnish the same or willfully and falsely stating
1171 the amount due or to become due for his or her damages sustained
1172 thereby. The information contained in such copy or statement
1173 furnished pursuant to such written demand is binding upon the
1174 owner or lienor furnishing it unless actual notice of any
1175 modification is given to the person demanding the copy or
1176 statement before such person acts in good faith in reliance on
1177 it. The person demanding such documents must pay for the
1178 reproduction thereof,⁺ and, if such person fails or refuses to
1179 do so, he or she is entitled only to inspect such documents at
1180 reasonable times and places.

1181 (2) The owner may serve in writing a demand of any lienor
1182 for a written statement under oath of his or her account showing
1183 the nature of the labor or services performed and to be
1184 performed, if any, the materials furnished, the materials to be
1185 furnished, if known, the amount paid on account to date, the
1186 amount due, and the amount to become due, if known, as of the
1187 date of the statement by the lienor. Any such demand to a lienor
1188 must be served on the lienor at the address and to the attention
1189 of any person who is designated to receive the demand ~~in the~~

39-01484-20

20201422__

1190 ~~notice to owner served by such lienor~~ and must include a
1191 description of the property and the names of the owner, ~~the~~
1192 ~~contractor,~~ and the lienor's customer, ~~as set forth in the~~
1193 ~~lienor's notice to owner~~. The failure or refusal to furnish the
1194 statement does not deprive the lienor of his or her lien if the
1195 demand is not served at the address of the lienor or directed to
1196 the attention of the person designated to receive the demand ~~in~~
1197 ~~the notice to owner~~. The failure or refusal to furnish the
1198 statement under oath within 30 days after the demand, or the
1199 furnishing of a false or fraudulent statement, deprives the
1200 person so failing or refusing to furnish such statement of his
1201 or her lien. If the owner serves more than one demand for
1202 statement of account on a lienor and none of the information
1203 regarding the account has changed since the lienor's last
1204 response to a demand, the failure or refusal to furnish such
1205 statement does not deprive the lienor of his or her lien. The
1206 negligent inclusion or omission of any information deprives the
1207 person of his or her lien to the extent the owner can
1208 demonstrate prejudice from such act or omission by the lienor.
1209 The failure to furnish a response to a demand for statement of
1210 account does not affect the validity of any claim of lien being
1211 enforced through a foreclosure case filed before the date on
1212 which the demand for statement is received by the lienor.

1213 (3) A request for sworn statement of account must be in
1214 substantially the following form:

1215
1216 REQUEST FOR SWORN STATEMENT OF ACCOUNT

1217
1218 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT, SIGNED

39-01484-20

20201422__

1219 UNDER OATH, WITHIN 30 DAYS OR THE FURNISHING OF A FALSE
 1220 STATEMENT WILL RESULT IN THE LOSS OF YOUR LIEN.

1221
 1222 To: ...(Lienor's name and address)...

1223
 1224 The undersigned hereby demands a written statement under oath of
 1225 his or her account showing the nature of the labor or services
 1226 performed and to be performed, if any, the materials furnished,
 1227 the materials to be furnished, if known, the amount paid on
 1228 account to date, the amount due, and the amount to become due,
 1229 if known, as of the date on which ~~of~~ the statement for the
 1230 improvement of real property identified as ...(property
 1231 description)....

1232
 1233 ~~...(name of contractor)...~~

1234
 1235 ~~...(name of the lienor's customer, as set forth in the~~
 1236 ~~lienor's Notice to Owner, if such notice has been served)...~~

1237
 1238 ...(signature and address of owner)..
 1239 ...(date of request for sworn statement of account)...

1240
 1241 ~~(4) When a contractor has furnished a payment bond pursuant~~
 1242 ~~to s. 713.23, he or she may, when an owner makes any payment to~~
 1243 ~~the contractor or directly to a lienor, serve a written demand~~
 1244 ~~on any other lienor for a written statement under oath of his or~~
 1245 ~~her account showing the nature of the labor or services~~
 1246 ~~performed and to be performed, if any, the materials furnished,~~
 1247 ~~the materials to be furnished, if known, the amount paid on~~

39-01484-20

20201422__

1248 ~~account to date, the amount due, and the amount to become due,~~
1249 ~~if known, as of the date of the statement by the lienor. Any~~
1250 ~~such demand to a lienor must be served on the lienor at the~~
1251 ~~address and to the attention of any person who is designated to~~
1252 ~~receive the demand in the notice to contractor served by such~~
1253 ~~lienor. The demand must include a description of the property~~
1254 ~~and the names of the owner, the contractor, and the lienor's~~
1255 ~~customer, as set forth in the lienor's notice to contractor. The~~
1256 ~~failure or refusal to furnish the statement does not deprive the~~
1257 ~~lienor of his or her rights under the bond if the demand is not~~
1258 ~~served at the address of the lienor or directed to the attention~~
1259 ~~of the person designated to receive the demand in the notice to~~
1260 ~~contractor. The failure to furnish the statement within 30 days~~
1261 ~~after the demand, or the furnishing of a false or fraudulent~~
1262 ~~statement, deprives the person who fails to furnish the~~
1263 ~~statement, or who furnishes the false or fraudulent statement,~~
1264 ~~of his or her rights under the bond. If the contractor serves~~
1265 ~~more than one demand for statement of account on a lienor and~~
1266 ~~none of the information regarding the account has changed since~~
1267 ~~the lienor's last response to a demand, the failure or refusal~~
1268 ~~to furnish such statement does not deprive the lienor of his or~~
1269 ~~her rights under the bond. The negligent inclusion or omission~~
1270 ~~of any information deprives the person of his or her rights~~
1271 ~~under the bond to the extent the contractor can demonstrate~~
1272 ~~prejudice from such act or omission by the lienor. The failure~~
1273 ~~to furnish a response to a demand for statement of account does~~
1274 ~~not affect the validity of any claim on the bond being enforced~~
1275 ~~in a lawsuit filed prior to the date the demand for statement of~~
1276 ~~account is received by the lienor.~~

39-01484-20

20201422__

1277 (4) (a) ~~(5) (a)~~ Any lienor who is perfecting a claim of lien
1278 may serve with the claim of lien or thereafter a written demand
1279 on the owner for a written statement under oath showing:

1280 1. The amount of the direct contract under which the lien
1281 was recorded;

1282 2. The dates and amounts paid or to be paid by or on behalf
1283 of the owner for all improvements described in the direct
1284 contract;

1285 3. The reasonable estimated costs of completing the direct
1286 contract under which the lien was claimed pursuant to the scope
1287 of the direct contract; and

1288 4. If known, the actual cost of completion.

1289 (b) Any owner who does not provide the statement within 30
1290 days after demand, or who provides a false or fraudulent
1291 statement, is not a prevailing party for purposes of an award of
1292 attorney fees under s. 713.29. The written demand must include
1293 the following warning in conspicuous type in substantially the
1294 following form:

1295
1296 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT WITHIN
1297 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL RESULT IN
1298 THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY ACTION TO
1299 ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING THIS
1300 STATEMENT.

1301 (5) ~~(6)~~ Any written demand served on the owner must include
1302 a description of the property and the name ~~names~~ of the
1303 ~~contractor and the lienor's customer, as set forth in the~~
1304 ~~lienor's notice to owner.~~

1305 (6) ~~(7)~~ For purposes of this section, the term "information"

39-01484-20

20201422__

1306 means the nature and quantity of the labor, services, and
1307 materials furnished or to be furnished by a lienor and the
1308 amount paid, the amount due, and the amount to become due on the
1309 lienor's account.

1310 Section 19. Subsection (3) of section 713.165, Florida
1311 Statutes, is amended to read:

1312 713.165 Request for list of subcontractors and suppliers.—

1313 ~~(3) A list furnished under this section shall not~~
1314 ~~constitute a notice to owner.~~

1315 Section 20. Subsection (2) of section 713.18, Florida
1316 Statutes, is amended to read:

1317 713.18 Manner of serving notices and other instruments.—

1318 (2) Notwithstanding subsection (1), service of a ~~notice to~~
1319 ~~owner or a preliminary notice to contractor under s. 255.05 or~~
1320 ~~s. 337.18, or s. 713.23~~ is effective as of the date of mailing
1321 if:

1322 (a) The notice is mailed by registered, Global Express
1323 Guaranteed, or certified mail, with postage prepaid, to the
1324 person to be served at any of the addresses set forth in
1325 subsection (3);

1326 (b) The notice is mailed within 40 days after the date on
1327 which the lienor first furnishes labor, services, or materials;
1328 and

1329 (c)1. The person who served the notice maintains a
1330 registered or certified mail log that shows the registered or
1331 certified mail number issued by the United States Postal
1332 Service, the name and address of the person served, and the date
1333 stamp of the United States Postal Service confirming the date of
1334 mailing; or

39-01484-20

20201422__

1335 2. The person who served the notice maintains electronic
1336 tracking records generated by the United States Postal Service
1337 containing the postal tracking number, the name and address of
1338 the person served, and verification of the date of receipt by
1339 the United States Postal Service.

1340 Section 21. Subsections (1) and (7) of section 713.20,
1341 Florida Statutes, are amended to read:

1342 713.20 Waiver or release of liens.—

1343 (1) The acceptance by the lienor of an unsecured note for
1344 all or any part of the amount of his or her demand does ~~shall~~
1345 not constitute a waiver of his or her lien therefor unless
1346 expressly so agreed in writing, nor shall it in any way affect
1347 the ~~period for filing the notice under s. 713.06(2), or the~~
1348 claim of lien under s. 713.08.

1349 (7) A lienor who executes a lien waiver and release in
1350 exchange for a check may condition the waiver and release upon
1351 ~~on~~ payment of the check. ~~However, in the absence of a payment~~
1352 ~~bond protecting the owner, the owner may withhold from any~~
1353 ~~payment to the contractor the amount of any such unpaid check~~
1354 ~~until any such condition is satisfied.~~

1355 Section 22. Subsections (1), (3), and (4) of section
1356 713.24, Florida Statutes, are amended to read:

1357 713.24 Transfer of liens to security.—

1358 (1) Any lien claimed under this part may be transferred~~7~~ by
1359 any person having an interest in the real property upon which
1360 the lien is imposed or the direct contract under which the lien
1361 is claimed~~7~~ from such real property to other security by either:

- 1362 (a) Depositing in the clerk's office a sum of money;i7 or
1363 (b) Filing in the clerk's office a bond executed as surety

39-01484-20

20201422__

1364 by a surety insurer licensed to do business in this state,
1365
1366 either ~~to be~~ in an amount equal to the amount demanded in such
1367 claim of lien, plus interest thereon at the legal rate for 3
1368 years, plus \$1,000 or 25 percent of the amount demanded in the
1369 claim of lien, whichever is greater, to apply on any attorney
1370 ~~attorney's~~ fees and court costs that may be taxed in any
1371 proceeding to enforce said lien. Such deposit or bond shall be
1372 conditioned to pay any judgment or decree which may be rendered
1373 for the satisfaction of the lien for which such claim of lien
1374 was recorded. Upon making such deposit or filing such bond, the
1375 clerk shall make and record a certificate showing the transfer
1376 of the lien from the real property to the security and shall
1377 mail a copy thereof by registered or certified mail to the
1378 lienor named in the claim of lien so transferred, at the address
1379 stated therein. Upon filing the certificate of transfer, the
1380 real property shall thereupon be released from the lien claimed,
1381 and such lien shall be transferred to said security. ~~In the~~
1382 ~~absence of allegations of privity between the lienor and the~~
1383 ~~owner, and~~ Subject to any order of the court increasing the
1384 amount required for the lien transfer deposit or bond, no other
1385 judgment or decree to pay money may be entered by the court
1386 against the owner. The clerk is ~~shall be~~ entitled to a service
1387 charge for making and serving the certificate, in the amount of
1388 up to \$20, from which the clerk shall remit \$5 to the Department
1389 of Revenue for deposit into the General Revenue Fund. If the
1390 transaction involves the transfer of multiple liens, an
1391 additional charge of up to \$10 for each additional lien shall be
1392 charged, from which the clerk shall remit \$2.50 to the

39-01484-20

20201422__

1393 Department of Revenue for deposit into the General Revenue Fund.
1394 For recording the certificate and approving the bond, the clerk
1395 shall receive her or his usual statutory service charges as
1396 prescribed in s. 28.24. Any number of liens may be transferred
1397 to one such security.

1398 (3) Any party having an interest in such security or the
1399 property from which the lien was transferred may at any time,
1400 and any number of times, file a complaint in chancery in the
1401 circuit court of the county where such security is deposited, or
1402 file a motion in a pending action to enforce a lien, for an
1403 order to require additional security, reduction of security,
1404 change or substitution of sureties, payment of discharge
1405 thereof, or any other matter affecting said security. If the
1406 court finds that the amount of the deposit or bond in excess of
1407 the amount claimed in the claim of lien is insufficient to pay
1408 the lienor's attorney ~~attorney's~~ fees and court costs incurred
1409 in the action to enforce the lien, the court must increase the
1410 amount of the cash deposit or lien transfer bond. Nothing in
1411 this section shall be construed to vest exclusive jurisdiction
1412 in the circuit courts over transfer bond claims for nonpayment
1413 of an amount within the monetary jurisdiction of the county
1414 courts.

1415 (4) If a proceeding to enforce a transferred lien is not
1416 commenced within the time specified in s. 713.22 or if it
1417 appears that the transferred lien has been satisfied of record,
1418 the clerk shall return said security upon request of the person
1419 depositing or filing the same, or the insurer. If a proceeding
1420 to enforce a lien is commenced in a court of competent
1421 jurisdiction within the time specified in s. 713.22 and, during

39-01484-20

20201422__

1422 such proceeding, the lien is transferred pursuant to this
1423 section ~~or s. 713.13(1)(e)~~, an action commenced within 1 year
1424 after the transfer, unless otherwise shortened by operation of
1425 law, in the same county or circuit court to recover against the
1426 security shall be deemed to have been brought as of the date of
1427 filing the action to enforce the lien, and the court shall have
1428 jurisdiction over the action.

1429 Section 23. Section 713.29, Florida Statutes, is amended to
1430 read:

1431 713.29 Attorney ~~Attorney's~~ fees.—In any action brought to
1432 enforce a lien ~~or to enforce a claim against a bond~~ under this
1433 part, the prevailing party is entitled to recover a reasonable
1434 fee for the services of her or his attorney for trial and appeal
1435 or for arbitration, in an amount to be determined by the court,
1436 which fee must be taxed as part of the prevailing party's costs,
1437 as allowed in equitable actions.

1438 Section 24. Paragraph (c) of subsection (2) and subsection
1439 (3) of section 713.31, Florida Statutes, are amended to read:

1440 713.31 Remedies in case of fraud or collusion.—

1441 (2)

1442 (c) An owner against whose interest in real property a
1443 fraudulent lien is filed, or any other lienor ~~contractor,~~
1444 ~~subcontractor, or sub-subcontractor~~ who suffers damages as a
1445 result of the filing of the fraudulent lien, has ~~shall have~~ a
1446 right of action for damages occasioned thereby. The action may
1447 be instituted independently of any other action, or in
1448 connection with a summons to show cause under s. 713.21, or as a
1449 counterclaim or cross-claim to any action to enforce or to
1450 determine the validity of the lien. The prevailing party in an

39-01484-20

20201422__

1451 action under this paragraph may recover reasonable attorney
1452 ~~attorney's~~ fees and costs. If the lienor who files a fraudulent
1453 lien is not the prevailing party, the lienor is ~~shall be~~ liable
1454 to the owner or the defrauded party who prevails in an action
1455 under this subsection in damages, which shall include court
1456 costs, clerk's fees, a reasonable attorney ~~attorney's~~ fee and
1457 costs for services in securing the discharge of the lien, the
1458 amount of any premium for a bond given to obtain the discharge
1459 of the lien, interest on any money deposited for the purpose of
1460 discharging the lien, and punitive damages in an amount not
1461 exceeding the difference between the amount claimed by the
1462 lienor to be due or to become due and the amount actually due or
1463 to become due.

1464 (3) Any person who willfully files a fraudulent lien, as
1465 defined in this section, commits a felony of the third degree,
1466 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1467 A state attorney or the statewide prosecutor, upon the filing of
1468 an indictment or information against a lienor ~~contractor,~~
1469 ~~subcontractor, or sub-subcontractor~~ which charges such person
1470 with a violation of this subsection, shall forward a copy of the
1471 indictment or information to the Department of Business and
1472 Professional Regulation. The Department of Business and
1473 Professional Regulation shall promptly open an investigation
1474 into the matter, and, if probable cause is found, shall furnish
1475 a copy of any investigative report to the state attorney or
1476 statewide prosecutor who furnished a copy of the indictment or
1477 information and to the owner of the property which is the
1478 subject of the investigation.

1479 Section 25. Paragraph (d) of subsection (1) of section

39-01484-20

20201422__

1480 713.345, Florida Statutes, is amended to read:

1481 713.345 Moneys received for real property improvements;
1482 penalty for misapplication.-

1483 (1)

1484 (d) A state attorney or the statewide prosecutor, upon the
1485 filing of an indictment or information against a lienor
1486 ~~contractor, subcontractor, or sub-subcontractor~~ which charges
1487 such person with a violation of paragraph (b), shall forward a
1488 copy of the indictment or information to the Department of
1489 Business and Professional Regulation. The Department of Business
1490 and Professional Regulation shall promptly open an investigation
1491 into the matter and, if probable cause is found, shall furnish a
1492 copy of any investigative report to the state attorney or
1493 statewide prosecutor who furnished a copy of the indictment or
1494 information and to the owner of the property which is the
1495 subject of the investigation.

1496 Section 26. Subsection (7) of section 713.346, Florida
1497 Statutes, is amended to read:

1498 713.346 Payment on construction contracts.-

1499 (7) The prevailing party in any proceeding under this
1500 section is entitled to recover costs, including a reasonable
1501 attorney ~~attorney's~~ fee, at trial and on appeal.

1502 Section 27. Section 713.3471, Florida Statutes, is amended
1503 to read:

1504 713.3471 Lender responsibilities with construction loans.-

1505 (1) Before ~~Prior to~~ a lender making any loan disbursement
1506 on any construction loan secured by residential real property
1507 directly to the owner, which, for purposes of this subsection,
1508 means only a natural person, into the owner's account or

39-01484-20

20201422__

1509 accounts, or jointly to the owner and any other party, the
 1510 lender shall mail, deliver by electronic mail or other
 1511 electronic format or facsimile, or personally deliver the
 1512 following written notice to the borrowers in bold type larger
 1513 than any other type on the page:

1514
 1515 WARNING!

1516
 1517 YOUR LENDER IS MAKING A LOAN DISBURSEMENT DIRECTLY TO
 1518 YOU AS THE BORROWER, OR JOINTLY TO YOU AND ANOTHER
 1519 PARTY. TO PROTECT YOURSELF FROM HAVING TO PAY TWICE
 1520 FOR THE SAME LABOR, SERVICES, OR MATERIALS USED IN
 1521 MAKING THE IMPROVEMENTS TO YOUR PROPERTY, BE SURE THAT
 1522 YOU REQUIRE ALL LIENORS ~~YOUR CONTRACTOR~~ TO GIVE YOU
 1523 LIEN RELEASES ~~FROM EACH LIENOR WHO HAS SENT YOU A~~
 1524 ~~NOTICE TO OWNER~~ EACH TIME YOU MAKE A PAYMENT TO THE
 1525 LIENOR ~~YOUR CONTRACTOR~~.

1526
 1527 This subsection does not apply when the owner is a contractor
 1528 licensed under chapter 489 or is a person who creates parcels or
 1529 offers parcels for sale or lease in the ordinary course of
 1530 business.

1531 (2) (a) Within 5 business days after a lender makes a final
 1532 determination, before ~~prior to~~ the distribution of all funds
 1533 available under a construction loan, that the lender will cease
 1534 further advances under ~~pursuant to~~ the loan, the lender shall
 1535 serve written notice of that decision on ~~the contractor and on~~
 1536 any ~~other~~ lienor who has given the lender notice. The lender is
 1537 ~~shall not be~~ liable to a lienor ~~the contractor~~ based upon the

39-01484-20

20201422__

1538 decision of the lender to cease further advances if the lender
1539 gives the lienor ~~contractor~~ notice of such decision in
1540 accordance with this subsection and the decision is otherwise
1541 permitted under the loan documents.

1542 (b) The failure to give notice to the lienor ~~contractor~~
1543 under paragraph (a) renders the lender liable to the lienor
1544 ~~contractor~~ to the extent of the actual value of the materials
1545 and direct labor costs furnished by the lienor ~~contractor~~ plus
1546 15 percent for overhead, profit, and all other costs from the
1547 date on which notice of the lender's decision should have been
1548 served on the lienor ~~contractor~~ and the date on which notice of
1549 the lender's decision is served on the lienor ~~contractor~~. The
1550 lender and the lienor ~~contractor~~ may agree in writing to any
1551 other reasonable method for determining the value of the labor,
1552 services, and materials furnished by the lienor ~~contractor~~.

1553 (c) The liability of the lender may not ~~shall in no event~~
1554 be greater than the amount of undisbursed funds at the time the
1555 notice should have been given unless the failure to give notice
1556 was done for the purpose of defrauding the lienor ~~contractor~~.
1557 The lender is not liable to the lienor ~~contractor~~ for
1558 consequential or punitive damages for failure to give timely
1559 notice under this subsection. The lienor has ~~contractor shall~~
1560 ~~have~~ a separate cause of action against the lender for damages
1561 sustained as the result of the lender's failure to give timely
1562 notice under this subsection. Such separate cause of action may
1563 not be used to hinder or delay any foreclosure action filed by
1564 the lender, may not be the basis of any claim for an equitable
1565 lien or for equitable subordination of the mortgage lien, and
1566 may not be asserted as an offset or a defense in the foreclosure

39-01484-20

20201422__

1567 case.

1568 (d) For purposes of serving notice on a lienor ~~the~~
1569 ~~contractor~~ under this subsection, the lender may rely on the
1570 name and address of the lienor ~~contractor~~ listed in the notice
1571 of commencement or, if a ~~no~~ notice of commencement is not
1572 recorded, on the name and address of the lienor ~~contractor~~
1573 listed in the uniform building permit application. ~~For purposes~~
1574 ~~of serving notice on any other lienor under this subsection, the~~
1575 ~~lender may rely upon the name and address of the lienor listed~~
1576 ~~in the notice to owner.~~

1577 (e) A ~~The contractor or any other~~ lienor may not waive the
1578 right to receive notice under this paragraph.

1579 (3) (a) If the lender and the borrower have designated a
1580 portion of the construction loan proceeds, the borrower may not
1581 authorize the lender to disburse the funds so designated for any
1582 other purpose until the owner serves ~~the contractor and any~~
1583 ~~other~~ lienor ~~who has given the owner a notice to owner~~ with
1584 written notice of that decision, including the amount of such
1585 loan proceeds to be disbursed. For the purposes of this
1586 subsection, the term "designated construction loan proceeds"
1587 means that portion of the loan allocated to actual construction
1588 costs of the facility and does ~~shall~~ not include allocated loan
1589 proceeds for tenant improvements when ~~where~~ the lienor does not
1590 have a ~~contractor has no~~ contractual obligation or work order to
1591 proceed with such improvements. The lender is ~~shall~~ not ~~be~~
1592 liable to the lienor ~~contractor~~ based upon the reallocation of
1593 the loan proceeds or the disbursement of the loan proceeds if
1594 the notice is timely given in accordance with this subsection
1595 and the decision is otherwise permitted under the loan

39-01484-20

20201422__

1596 documents.

1597 (b) If the lender is permitted under the loan documents to
1598 make disbursements from the loan contrary to the original loan
1599 budget without the borrower's prior consent, the lender is
1600 responsible for serving the notice to any ~~the contractor or~~
1601 ~~other~~ lienor required under this subsection.

1602 (c) This subsection does not apply to a residential project
1603 of four units or fewer ~~less~~.

1604 (d) This subsection does not apply to construction loans of
1605 less than \$1 million unless the lender has committed to make
1606 more than one loan, the total of which loans are greater than \$1
1607 million, for the purpose of evading this subsection.

1608 (e) The owner or the lender is not required to give notice
1609 to ~~the contractor or~~ any ~~other~~ lienor under this subsection
1610 unless the total amount of all disbursements described in
1611 paragraph (a) exceed 5 percent of the original amount of the
1612 designated construction loan proceeds or \$100,000, whichever is
1613 less.

1614 (f) Disbursement of loan proceeds contrary to this
1615 subsection renders the lender liable to the lienor ~~contractor~~ to
1616 the extent of any such disbursements or to the extent of the
1617 actual value of the materials and direct labor costs plus 15
1618 percent for overhead, profit, and all other costs, whichever is
1619 less. The lender is not liable to the lienor ~~contractor~~ for
1620 consequential or punitive damages for disbursing loan proceeds
1621 in violation of this subsection. The lienor has ~~contractor shall~~
1622 ~~have~~ a separate cause of action against the lender for damages
1623 sustained as the result of the disbursement of loan proceeds in
1624 violation of this subsection. Such separate cause of action may

39-01484-20

20201422__

1625 not be used to hinder or delay any foreclosure action filed by
1626 the lender, may not be the basis of any claim for equitable
1627 subordination of the mortgage lien, and may not be asserted as
1628 an offset or a defense in the foreclosure case.

1629 (g) For purposes of serving notice on a lienor ~~the~~
1630 ~~contractor~~ under this subsection, the lender may rely upon the
1631 name and address of the lienor ~~contractor~~ listed in the notice
1632 of commencement or, if no notice of commencement is recorded,
1633 the name and address of the lienor ~~contractor~~ listed in the
1634 uniform building permit application. ~~For purposes of serving~~
1635 ~~notice on any other lienor under this subsection, the lender may~~
1636 ~~rely upon the name and address of the lienor listed in the~~
1637 ~~notice to owner.~~

1638 (h) For purposes of this subsection, the lender may rely
1639 upon a written statement, signed under oath by the ~~contractor or~~
1640 ~~any other~~ lienor, that confirms that the ~~contractor or the~~
1641 lienor has received the written notice required by this
1642 subsection.

1643 (i) A ~~contractor and any other~~ lienor may not waive his or
1644 her right to receive notice under this subsection.

1645 Section 28. Section 713.35, Florida Statutes, is amended to
1646 read:

1647 713.35 Making or furnishing false statement.—Any person,
1648 firm, or corporation who knowingly and intentionally makes or
1649 furnishes to another person, firm, or corporation an affidavit,
1650 a waiver or release of lien, or other document, whether or not
1651 under oath, containing false information about the payment
1652 status of any lienors ~~subcontractors, sub-subcontractors, or~~
1653 ~~suppliers~~ in connection with the improvement of real property in

39-01484-20

20201422__

1654 this state, knowing that the one to whom it was furnished might
 1655 rely on it, and the one to whom it was furnished will part with
 1656 draw payments or final payment relying on the truth of such
 1657 statement as an inducement to do so commits a felony of the
 1658 third degree, punishable as provided in s. 775.082 or s.
 1659 775.083. A state attorney or the statewide prosecutor, upon the
 1660 filing of an indictment or information against a person, firm,
 1661 or corporation ~~contractor, subcontractor, or sub-subcontractor~~
 1662 which charges such person or entity with a violation of this
 1663 section, shall forward a copy of the indictment or information
 1664 to the Department of Business and Professional Regulation. The
 1665 Department of Business and Professional Regulation shall
 1666 promptly open an investigation into the matter and, if probable
 1667 cause is found, shall furnish a copy of any investigative report
 1668 to the state attorney or statewide prosecutor who furnished a
 1669 copy of the indictment or information and to the owner of the
 1670 property which is the subject of the investigation.

1671 Section 29. Subsection (2) of section 713.22, Florida
 1672 Statutes, is amended to read:

1673 713.22 Duration of lien.—

1674 (2) An owner or the owner's attorney may elect to shorten
 1675 the time prescribed in subsection (1) within which to commence
 1676 an action to enforce any claim of lien or claim against ~~a bond~~
 1677 ~~or~~ other security under ~~s. 713.23 or~~ s. 713.24 by recording in
 1678 the clerk's office a notice in substantially the following form:

1679

1680 NOTICE OF CONTEST OF LIEN

1681

1682 To: ...(Name and address of lienor)...

39-01484-20

20201422__

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

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

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

Section 30. Paragraph (b) of subsection (2) and paragraph (e) of subsection (5) of section 95.11, Florida Statutes, are amended to read:

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

(2) WITHIN FIVE YEARS.—

(b) A legal or equitable action on a contract, obligation, or liability founded on a written instrument, except for an action to enforce a claim against a payment bond, which shall be governed by the applicable provisions of paragraph (5) (e), s.

39-01484-20

20201422__

1712 255.05(10), or s. 337.18(1), ~~or s. 713.23(1)(e)~~, and except for
1713 an action for a deficiency judgment governed by paragraph
1714 (5) (h).

1715 (5) WITHIN ONE YEAR.—

1716 (e) Except for actions governed by s. 255.05(10) or s.
1717 337.18(1), ~~or s. 713.23(1)(e)~~, an action to enforce any claim
1718 against a payment bond on which the principal is a contractor,
1719 subcontractor, or sub-subcontractor as defined in s. 713.01, for
1720 private work as well as public work, from the last furnishing of
1721 labor, services, or materials or from the last furnishing of
1722 labor, services, or materials by the contractor if the
1723 contractor is the principal on a bond on the same construction
1724 project, whichever is later.

1725 Section 31. This act shall take effect July 1, 2020.