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1
2 An act relating to construction contracting; amending
3 s. 95.11, F.S.; adding a cross-reference; amending s.
4 255.05, F.S.; requiring that the bond number be stated
5 on the first page of the bond; providing that a public
6 entity may not make payment to the contractor unless
7 the public entity has received a certified copy of the
8 bond; providing that a provision in a payment bond
9 furnished for a public works contract that limits or
10 expands the effective duration of the bond or adds
11 conditions precedent is unenforceable; requiring a
12 contractor, or the contractor's attorney, to serve
13 rather than mail a notice of contest of claim against
14 the payment bond; providing prerequisites for
15 commencement of an action against a payment bond;
16 requiring payment bond forms to reference specified
17 notice and time limitation provisions; providing that
18 payment to a contractor who has furnished a payment
19 bond on a public works project may not be conditioned
20 upon production of certain documents if the surety has
21 given written consent; providing for the surety to
22 withhold or revoke consent; creating s. 255.0518,
23 F.S.; requiring that the state, a county, a
24 municipality, or any other public body or institution
25 open sealed bids received in response to a competitive
26 solicitation at a public meeting, announce the name of
27 each bidder and the price submitted, and make
28 available upon request the names of bidders and

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29 submitted prices; amending s. 713.10, F.S.; providing
30 that a specified notice concerning a lessor's
31 liability for liens for improvements made by the
32 lessee prohibits liens even if other leases do not
33 expressly prohibit liens or if certain other
34 provisions are not identical; amending s. 713.13,
35 F.S.; revising a notice form to clarify that the
36 notice of commencement expires 1 year after the date
37 of recording; removing a clause relating to perjury;
38 providing additional time for service when a notice of
39 commencement is not recorded with a copy of the bond
40 attached; reenacting and amending s. 489.118, F.S.;
41 reviving certain grandfathering provisions and setting
42 a new deadline by which certain registered contractors
43 may apply for certification; amending s. 713.132,
44 F.S.; requiring notice of termination to be served on
45 lienors in privity with the owner; amending s. 713.16,
46 F.S.; revising requirements for demands for a copy of
47 a construction contract and a statement of account;
48 authorizing a lienor to make certain written demands
49 to an owner for certain written statements; providing
50 requirements for such written demands; amending s.
51 713.18, F.S.; providing additional methods by which
52 certain items may be served; revising provisions
53 relating to when service of specified items is
54 effective; specifying requirements for certain written
55 instruments under certain circumstances; amending s.
56 713.22, F.S.; requiring that the clerk serve rather

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57 than mail a notice of contest of lien; amending s.
 58 713.23, F.S.; revising the contents of a notice to
 59 contractor; requiring that a contractor serve rather
 60 than mail a notice of contest of claim against the
 61 payment bond and a notice of bond; clarifying the
 62 attachment of the bond to the notice; providing that a
 63 provision in a payment bond that limits or expands the
 64 effective duration of the bond or adds conditions
 65 precedent is unenforceable; clarifying applicability
 66 of certain provisions; providing effective dates.

67

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

69

70 Section 1. Paragraph (b) of subsection (2) and paragraph
 71 (e) of subsection (5) of section 95.11, Florida Statutes, are
 72 amended to read:

73 95.11 Limitations other than for the recovery of real
 74 property.—Actions other than for recovery of real property shall
 75 be commenced as follows:

76 (2) WITHIN FIVE YEARS.—

77 (b) A legal or equitable action on a contract, obligation,
 78 or liability founded on a written instrument, except for an
 79 action to enforce a claim against a payment bond, which shall be
 80 governed by the applicable provisions of paragraph (5)(e), s.
 81 ~~ss.~~ 255.05(10), s. 337.18(1), or s. and 713.23(1)(e).

82 (5) WITHIN ONE YEAR.—

83 (e) Except for actions governed by s. 255.05(10), s.
 84 337.18(1), or s. 713.23(1)(e), an action to enforce any claim

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85 against a payment bond on which the principal is a contractor,
 86 subcontractor, or sub-subcontractor as defined in s. 713.01, for
 87 private work as well as public work, from the last furnishing of
 88 labor, services, or materials or from the last furnishing of
 89 labor, services, or materials by the contractor if the
 90 contractor is the principal on a bond on the same construction
 91 project, whichever is later.

92 Section 2. Subsection (1), paragraph (a) of subsection
 93 (2), and subsection (6) of section 255.05, Florida Statutes, are
 94 amended, and subsection (11) is added to that section, to read:

95 255.05 Bond of contractor constructing public buildings;
 96 form; action by claimants ~~materialmen~~.

97 (1) ~~(a)~~ A ~~Any~~ person entering into a formal contract with
 98 the state or any county, city, or political subdivision thereof,
 99 or other public authority or private entity, for the
 100 construction of a public building, for the prosecution and
 101 completion of a public work, or for repairs upon a public
 102 building or public work shall be required, before commencing the
 103 work or before recommencing the work after a default or
 104 abandonment, to execute, ~~deliver to the public owner,~~ and record
 105 in the public records of the county where the improvement is
 106 located, a payment and performance bond with a surety insurer
 107 authorized to do business in this state as surety. A public
 108 entity may not require a contractor to secure a surety bond
 109 under this section from a specific agent or bonding company.

110 (a) The bond must state on its front page:

111 1. The name, principal business address, and phone number
 112 of the contractor, the surety, the owner of the property being

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113 improved, and, if different from the owner, the contracting
 114 public entity.~~†~~

115 2. The contract number assigned by the contracting public
 116 entity.~~†~~

117 3. The bond number assigned by the surety. ~~and~~

118 4. A description of the project sufficient to identify it,
 119 such as a legal description or the street address of the
 120 property being improved, and a general description of the
 121 improvement.

122 (b) Before commencing the work or before recommencing the
 123 work after a default or abandonment, the contractor shall
 124 provide to the public entity a certified copy of the recorded
 125 bond. Notwithstanding the terms of the contract or any other law
 126 governing prompt payment for construction services, the public
 127 entity may not make a payment to the contractor until the
 128 contractor has complied with this paragraph. This paragraph
 129 applies to contracts entered into on or after October 1, 2012.

130 (c) The ~~Such~~ bond shall be conditioned upon the
 131 contractor's performance of the construction work in the time
 132 and manner prescribed in the contract and promptly making
 133 payments to all persons defined in s. 713.01 who furnish labor,
 134 services, or materials for the prosecution of the work provided
 135 for in the contract. ~~A~~ Any claimant may apply to the
 136 governmental entity having charge of the work for copies of the
 137 contract and bond and shall thereupon be furnished with a
 138 ~~certified~~ copy of the contract and the recorded bond. The
 139 claimant shall have a cause ~~right~~ of action against the
 140 contractor and surety for the amount due him or her, including

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141 unpaid finance charges due under the claimant's contract. Such
 142 action may ~~shall~~ not involve the public authority in any
 143 expense.

144 (d) When the ~~such~~ work is done for the state and the
 145 contract is for \$100,000 or less, no payment and performance
 146 bond shall be required. At the discretion of the official or
 147 board awarding such contract when such work is done for any
 148 county, city, political subdivision, or public authority, a ~~any~~
 149 person entering into such a contract that ~~which~~ is for \$200,000
 150 or less may be exempted from executing the payment and
 151 performance bond. When such work is done for the state, the
 152 Secretary of Management Services may delegate to state agencies
 153 the authority to exempt any person entering into such a contract
 154 amounting to more than \$100,000 but less than \$200,000 from
 155 executing the payment and performance bond. If an ~~In the event~~
 156 ~~such~~ exemption is granted, the officer or official is ~~officials~~
 157 ~~shall~~ not be personally liable to persons suffering loss because
 158 of granting such exemption. The Department of Management
 159 Services shall maintain information on the number of requests by
 160 state agencies for delegation of authority to waive the bond
 161 requirements by agency and project number and whether any
 162 request for delegation was denied and the justification for the
 163 denial.

164 (e) Any provision in a payment bond issued on or after
 165 October 1, 2012, furnished for public work contracts as provided
 166 by this subsection which further restricts the classes of
 167 persons ~~as defined in s. 713.01~~ protected by the bond, which
 168 restricts ~~or~~ the venue of any proceeding relating to such bond,

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169 which limits or expands the effective duration of the bond, or
 170 which adds conditions precedent to the enforcement of a claim
 171 against the bond beyond those provided in this section is
 172 unenforceable.

173 (f)~~(b)~~ The Department of Management Services shall adopt
 174 rules with respect to all contracts for \$200,000 or less, to
 175 provide:

176 1. Procedures for retaining up to 10 percent of each
 177 request for payment submitted by a contractor and procedures for
 178 determining disbursements from the amount retained on a pro rata
 179 basis to laborers, materialmen, and subcontractors, as defined
 180 in s. 713.01.

181 2. Procedures for requiring certification from laborers,
 182 materialmen, and subcontractors, as defined in s. 713.01, before
 183 ~~prior to~~ final payment to the contractor that such laborers,
 184 materialmen, and subcontractors have no claims against the
 185 contractor resulting from the completion of the work provided
 186 for in the contract.

187
 188 The state is ~~shall~~ not ~~be held~~ liable to any laborer,
 189 materialman, or subcontractor for any amounts greater than the
 190 pro rata share as determined under this section.

191 (g)~~(e)~~1. The amount of the bond shall equal the contract
 192 price, except that for a contract in excess of \$250 million, if
 193 the state, county, municipality, political subdivision, or other
 194 public entity finds that a bond in the amount of the contract
 195 price is not reasonably available, the public owner shall set
 196 the amount of the bond at the largest amount reasonably

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197 available, but not less than \$250 million.

198 2. For construction-management or design-build contracts,
 199 if the public owner does not include in the bond amount the cost
 200 of design or other nonconstruction services, the bond may not be
 201 conditioned on performance of such services or payment to
 202 persons furnishing such services. Notwithstanding paragraphs (c)
 203 and (e) ~~paragraph (a)~~, such a bond may exclude persons
 204 furnishing such services from the classes of persons protected
 205 by the bond.

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

213
 214 NOTICE OF CONTEST OF CLAIM
 215 AGAINST PAYMENT BOND
 216

217 To: ... (Name and address of claimant) ...
 218

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

226

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

228

229 The claim of a ~~any~~ claimant upon whom such notice is served and
 230 who fails to institute a suit to enforce his or her claim
 231 against the payment bond within 60 days after service of such
 232 notice shall be extinguished automatically. The contractor or
 233 the contractor's attorney ~~clerk~~ shall serve ~~mail~~ a copy of the
 234 notice of contest to the claimant at the address shown in the
 235 notice of nonpayment or most recent amendment thereto and shall
 236 certify to such service on the face of the ~~such~~ notice and
 237 record the notice. ~~Service is complete upon mailing.~~

238 2. A claimant, except a laborer, who is not in privity
 239 with the contractor shall, before commencing or not later than
 240 45 days after commencing to furnish labor, services, or
 241 materials for the prosecution of the work, furnish the
 242 contractor with a written notice that he or she intends to look
 243 to the bond for protection. A claimant who is not in privity
 244 with the contractor and who has not received payment for his or
 245 her labor, services, or materials shall deliver to the
 246 contractor and to the surety written notice of the performance
 247 of the labor or delivery of the materials or supplies and of the
 248 nonpayment. The notice of nonpayment shall ~~may~~ be served ~~at any~~
 249 ~~time~~ during the progress of the work or thereafter but may not
 250 be served earlier than ~~before~~ 45 days after the first furnishing
 251 of labor, services, or materials or, ~~and not~~ later than 90 days
 252 after the final furnishing of the labor, services, or materials

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253 | by the claimant or, with respect to rental equipment, not later
254 | than 90 days after the date that the rental equipment was last
255 | on the job site available for use. Any notice of nonpayment
256 | served by a claimant who is not in privity with the contractor
257 | which includes sums for retainage must specify the portion of
258 | the amount claimed for retainage. An ~~No~~ action for the labor,
259 | materials, or supplies may not be instituted against the
260 | contractor or the surety unless the notice to the contractor and
261 | notice of nonpayment have been served, if required by this
262 | section ~~both notices have been given~~. Notices required or
263 | permitted under this section shall ~~may~~ be served in accordance
264 | with s. 713.18. A claimant may not waive in advance his or her
265 | right to bring an action under the bond against the surety. In
266 | any action brought to enforce a claim against a payment bond
267 | under this section, the prevailing party is entitled to recover
268 | a reasonable fee for the services of his or her attorney for
269 | trial and appeal or for arbitration, in an amount to be
270 | determined by the court, which fee must be taxed as part of the
271 | prevailing party's costs, as allowed in equitable actions. The
272 | time periods for service of a notice of nonpayment or for
273 | bringing an action against a contractor or a surety shall be
274 | measured from the last day of furnishing labor, services, or
275 | materials by the claimant and may ~~shall~~ not be measured by other
276 | standards, such as the issuance of a certificate of occupancy or
277 | the issuance of a certificate of substantial completion.

278 | (6) All payment bond forms used by a public owner and all
279 | payment bonds executed pursuant to this section by a surety
280 | shall make reference to this section by number, and ~~and~~ shall

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281 contain reference to the notice and time limitation provisions
 282 in subsections ~~subsection~~ (2) and (10), and shall comply with
 283 the requirements of paragraph (1)(a).

284 (11) When a contractor furnishes and records a payment and
 285 performance bond for a public works project in accordance with
 286 this section and provides the public authority with a written
 287 consent from the surety regarding the project or payment in
 288 question, the public authority may not condition its payment to
 289 the contractor on the production of a release, waiver, or like
 290 documentation from a claimant demonstrating that the claimant
 291 does not have an outstanding claim against the contractor, the
 292 surety, the payment bond, or the public authority for payments
 293 due on labor, services, or materials furnished on the public
 294 works project. The surety may, in a writing served on the public
 295 authority, revoke its consent or direct that the public
 296 authority withhold a specified amount from a payment, which
 297 shall be effective upon receipt. This subsection applies to
 298 contracts entered into on or after October 1, 2012.

299 Section 3. Effective upon this act becoming a law, section
 300 255.0518, Florida Statutes, is created
 301 to read:

302 255.0518 Public bids; bid opening.—Notwithstanding s.
 303 119.071(1)(b), the state or any county or municipality thereof
 304 or any department or agency of the state, county, or
 305 municipality or any other public body or institution shall:

306 (1) When opening sealed bids or the portion of any sealed
 307 bids that include the prices submitted that are received
 308 pursuant to a competitive solicitation for construction or

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309 repairs on a public building or public work, open the sealed
 310 bids at a public meeting conducted in compliance with s.
 311 286.011.

312 (2) Announce at that meeting the name of each bidder and
 313 the price submitted.

314 (3) Make available upon request the name of each bidder
 315 and the price submitted.

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

318 713.10 Extent of liens.—

319 (2)

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

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

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

335 a. The name of the lessor.

336 b. The legal description of the parcel of land to which

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337 the notice applies.

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

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

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

345
346 A notice that is consistent with subparagraph 2. effectively
347 prohibits liens for improvements made by a lessee even if other
348 leases for premises on the parcel do not expressly prohibit
349 liens or if provisions of each lease restricting the application
350 of liens are not identical.

351 Section 5. Paragraphs (d) and (e) of subsection (1) of
352 section 713.13, Florida Statutes, are amended to read:

353 713.13 Notice of commencement.—

354 (1)

355 (d) A notice of commencement must be in substantially the
356 following form:

357
358 Permit No..... Tax Folio No.....

359 NOTICE OF COMMENCEMENT

360 State of....

361 County of....

362
363 The undersigned hereby gives notice that improvement will be
364 made to certain real property, and in accordance with Chapter

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365 713, Florida Statutes, the following information is provided in
 366 this Notice of Commencement.

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

369 2. General description of improvement:.....

370 3. Owner information or Lessee information if the Lessee
 371 contracted for the improvement:

372 a. Name and address:.....

373 b. Interest in property:.....

374 c. Name and address of fee simple titleholder (if
 375 different from Owner listed above):.....

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

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

378 5. Surety (if applicable, a copy of the payment bond is
 379 attached):

380 a. Name and address:.....

381 b. Phone number:.....

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

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

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

385 7. Persons within the State of Florida designated by Owner
 386 upon whom notices or other documents may be served as provided
 387 by Section 713.13(1)(a)7., Florida Statutes:

388 a. Name and address:.....

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

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

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

395 9. Expiration date of notice of commencement (the
396 expiration date ~~may not be before the completion of construction~~
397 ~~and final payment to the contractor,~~ but will be 1 year from the
398 date of recording unless a different date is specified).....

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

409
410 ~~Under penalty of perjury, I declare that I have read the~~
411 ~~foregoing notice of commencement and that the facts stated~~
412 ~~therein are true to the best of my knowledge and belief.~~

413
414 ... (Signature of Owner or Lessee, or Owner's or Lessee's
415 Authorized Officer/Director/Partner/Manager) ...

416
417 ... (Signatory's Title/Office) ...

418
419 The foregoing instrument was acknowledged before me this
420 day of, ... (year) ..., by ... (name of person) ... as ... (type

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421 of authority, . . . e.g. officer, trustee, attorney in
 422 fact)... for ...(name of party on behalf of whom instrument was
 423 executed)....

424
 425 ...(Signature of Notary Public - State of Florida)...

426
 427 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

428
 429 Personally Known OR Produced Identification

430
 431 Type of Identification Produced.....

432
 433 (e) A copy of any payment bond must be attached at the
 434 time of recordation of the notice of commencement. The failure
 435 to attach a copy of the bond to the notice of commencement when
 436 the notice is recorded negates the exemption provided in s.
 437 713.02(6). However, if a payment bond under s. 713.23 exists but
 438 was not attached at the time of recordation of the notice of
 439 commencement, the bond may be used to transfer any recorded lien
 440 of a lienor except that of the contractor by the recordation and
 441 service of a notice of bond pursuant to s. 713.23(2). The notice
 442 requirements of s. 713.23 apply to any claim against the bond;
 443 however, the time limits for serving any required notices shall,
 444 at the option of the lienor, be calculated from the dates ~~begin~~
 445 ~~running from the later of the time~~ specified in s. 713.23 or the
 446 date the notice of bond is served on the lienor.

447 Section 6. Section 489.118, Florida Statutes, is reenacted
 448 and amended to read:

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449 489.118 Certification of registered contractors;
 450 grandfathering provisions.—The board shall, upon receipt of a
 451 completed application and appropriate fee, issue a certificate
 452 in the appropriate category to any contractor registered under
 453 this part who makes application to the board and can show that
 454 he or she meets each of the following requirements:

455 (1) Currently holds a valid registered local license in
 456 one of the contractor categories defined in s. 489.105(3)(a)-(q)
 457 ~~489.105(3)(a)-(p)~~.

458 (2) Has, for that category, passed a written examination
 459 that the board finds to be substantially similar to the
 460 examination required to be licensed as a certified contractor
 461 under this part. For purposes of this subsection, a written,
 462 proctored examination such as that produced by the National
 463 Assessment Institute, Block and Associates, NAI/Block, Experior
 464 Assessments, Professional Testing, Inc., or Assessment Systems,
 465 Inc., shall be considered to be substantially similar to the
 466 examination required to be licensed as a certified contractor.
 467 The board may not impose or make any requirements regarding the
 468 nature or content of these cited examinations.

469 (3) Has at least 5 years of experience as a contractor in
 470 that contracting category, or as an inspector or building
 471 administrator with oversight over that category, at the time of
 472 application. For contractors, only time periods in which the
 473 contractor license is active and the contractor is not on
 474 probation shall count toward the 5 years required by this
 475 subsection.

476 (4) Has not had his or her contractor's license revoked at

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477 any time, had his or her contractor's license suspended within
 478 the last 5 years, or been assessed a fine in excess of \$500
 479 within the last 5 years.

480 (5) Is in compliance with the insurance and financial
 481 responsibility requirements in s. 489.115(5).

482
 483 Applicants wishing to obtain a certificate pursuant to this
 484 section must make application by November 1, 2015 ~~2005~~.

485 Section 7. Paragraph (f) of subsection (1) and subsection
 486 (4) of section 713.132, Florida Statutes, are amended to read:
 487 713.132 Notice of termination.—

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

491 (f) A statement that the owner has, before recording the
 492 notice of termination, served a copy of the notice of
 493 termination on the contractor and on each lienor who has a
 494 direct contract with the owner or who has served a notice to
 495 owner ~~given notice~~. The owner is not required to serve a copy of
 496 the notice of termination on any lienor who has executed a
 497 waiver and release of lien upon final payment in accordance with
 498 s. 713.20.

499 (4) A notice of termination is effective to terminate the
 500 notice of commencement at the later of 30 days after recording
 501 of the notice of termination or the date stated in the notice of
 502 termination as the date on which the notice of commencement is
 503 terminated, if ~~provided that~~ the notice of termination has been
 504 served pursuant to paragraph (1)(f) on the contractor and on

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505 each lienor who has a direct contract with the owner or who has
 506 served a notice to owner ~~given notice~~.

507 Section 8. Section 713.16, Florida Statutes, is amended to
 508 read:

509 713.16 Demand for copy of contract and statements of
 510 account; form.—

511 (1) A copy of the contract of a lienor or owner and a
 512 statement of the amount due or to become due if fixed or
 513 ascertainable thereon must be furnished by any party thereto,
 514 upon written demand of an owner or a lienor contracting with or
 515 employed by the other party to such contract. If the owner or
 516 lienor refuses or neglects to furnish such copy of the contract
 517 or such statement, or willfully and falsely states the amount
 518 due or to become due if fixed or ascertainable under such
 519 contract, any person who suffers any detriment thereby has a
 520 cause of action against the person refusing or neglecting to
 521 furnish the same or willfully and falsely stating the amount due
 522 or to become due for his or her damages sustained thereby. The
 523 information contained in such copy or statement furnished
 524 pursuant to such written demand is binding upon the owner or
 525 lienor furnishing it unless actual notice of any modification is
 526 given to the person demanding the copy or statement before such
 527 person acts in good faith in reliance on it. The person
 528 demanding such documents must pay for the reproduction thereof;
 529 and, if such person fails or refuses to do so, he or she is
 530 entitled only to inspect such documents at reasonable times and
 531 places.

532 (2) The owner may serve in writing a demand of any lienor

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533 | for a written statement under oath of his or her account showing
534 | the nature of the labor or services performed and to be
535 | performed, if any, the materials furnished, the materials to be
536 | furnished, if known, the amount paid on account to date, the
537 | amount due, and the amount to become due, if known, as of the
538 | date of the statement by the lienor. Any such demand to a lienor
539 | must be served on the lienor at the address and to the attention
540 | of any person who is designated to receive the demand in the
541 | notice to owner served by such lienor and must include a
542 | description of the property and the names of the owner, the
543 | contractor, and the lienor's customer, as set forth in the
544 | lienor's notice to owner. The failure or refusal to furnish the
545 | statement does not deprive the lienor of his or her lien if the
546 | demand is not served at the address of the lienor or directed to
547 | the attention of the person designated to receive the demand in
548 | the notice to owner. The failure or refusal to furnish the
549 | statement under oath within 30 days after the demand, or the
550 | furnishing of a false or fraudulent statement, deprives the
551 | person so failing or refusing to furnish such statement of his
552 | or her lien. If the owner serves more than one demand for
553 | statement of account on a lienor and none of the information
554 | regarding the account has changed since the lienor's last
555 | response to a demand, the failure or refusal to furnish such
556 | statement does not deprive the lienor of his or her lien. The
557 | negligent inclusion or omission of any information deprives the
558 | person of his or her lien to the extent the owner can
559 | demonstrate prejudice from such act or omission by the lienor.
560 | The failure to furnish a response to a demand for statement of

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561 account does not affect the validity of any claim of lien being
 562 enforced through a foreclosure case filed before ~~prior to~~ the
 563 date the demand for statement is received by the lienor.

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

566
 567 REQUEST FOR SWORN STATEMENT OF ACCOUNT

568
 569 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT, SIGNED
 570 UNDER OATH, WITHIN 30 DAYS OR THE FURNISHING OF A FALSE
 571 STATEMENT WILL RESULT IN THE LOSS OF YOUR LIEN.

572
 573 To: ...(Lienor's name and address)...

574
 575 The undersigned hereby demands a written statement under oath of
 576 his or her account showing the nature of the labor or services
 577 performed and to be performed, if any, the materials furnished,
 578 the materials to be furnished, if known, the amount paid on
 579 account to date, the amount due, and the amount to become due,
 580 if known, as of the date of the statement for the improvement of
 581 real property identified as ...(property description)....

582
 583 ...(name of contractor)...

584
 585 ...(name of the lienor's customer, as set forth in the
 586 lienor's Notice to Owner, if such notice has been served)...

587
 588 ...(signature and address of owner)...

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589 | ... (date of request for sworn statement of account) ...

590 |

591 | (4) When a contractor has furnished a payment bond
592 | pursuant to s. 713.23, he or she may, when an owner makes any
593 | payment to the contractor or directly to a lienor, serve a
594 | written demand on any other lienor for a written statement under
595 | oath of his or her account showing the nature of the labor or
596 | services performed and to be performed, if any, the materials
597 | furnished, the materials to be furnished, if known, the amount
598 | paid on account to date, the amount due, and the amount to
599 | become due, if known, as of the date of the statement by the
600 | lienor. Any such demand to a lienor must be served on the lienor
601 | at the address and to the attention of any person who is
602 | designated to receive the demand in the notice to contractor
603 | served by such lienor. The demand must include a description of
604 | the property and the names of the owner, the contractor, and the
605 | lienor's customer, as set forth in the lienor's notice to
606 | contractor. The failure or refusal to furnish the statement does
607 | not deprive the lienor of his or her rights under the bond if
608 | the demand is not served at the address of the lienor or
609 | directed to the attention of the person designated to receive
610 | the demand in the notice to contractor. The failure to furnish
611 | the statement within 30 days after the demand, or the furnishing
612 | of a false or fraudulent statement, deprives the person who
613 | fails to furnish the statement, or who furnishes the false or
614 | fraudulent statement, of his or her rights under the bond. If
615 | the contractor serves more than one demand for statement of
616 | account on a lienor and none of the information regarding the

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617 account has changed since the lienor's last response to a
 618 demand, the failure or refusal to furnish such statement does
 619 not deprive the lienor of his or her rights under the bond. The
 620 negligent inclusion or omission of any information deprives the
 621 person of his or her rights under the bond to the extent the
 622 contractor can demonstrate prejudice from such act or omission
 623 by the lienor. The failure to furnish a response to a demand for
 624 statement of account does not affect the validity of any claim
 625 on the bond being enforced in a lawsuit filed prior to the date
 626 the demand for statement of account is received by the lienor.

627 (5) (a) Any lienor who is perfecting a claim of lien ~~has~~
 628 ~~recorded a claim of lien~~ may serve with the claim of lien or
 629 thereafter a ~~make~~ written demand on the owner for a written
 630 statement under oath showing:

631 1. The amount of the direct contract under which the lien
 632 was recorded;

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

636 3. The reasonable estimated costs of completing the direct
 637 contract under which the lien was claimed pursuant to the scope
 638 of the direct contract; and

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

640 (b) Any owner who does not provide the statement within 30
 641 days after demand, or who provides a false or fraudulent
 642 statement, is not a prevailing party for purposes of an award of
 643 attorney ~~attorney's~~ fees under s. 713.29. The written demand
 644 must include the following warning in conspicuous type in

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645 substantially the following form:

646

647 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT WITHIN
 648 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL RESULT IN
 649 THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY ACTION TO
 650 ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING THIS
 651 STATEMENT.

652 (6) Any written demand served on the owner must include a
 653 description of the property and the names of the contractor and
 654 the lienor's customer, as set forth in the lienor's notice to
 655 owner.

656 (7)~~(6)~~ For purposes of this section, the term
 657 "information" means the nature and quantity of the labor,
 658 services, and materials furnished or to be furnished by a lienor
 659 and the amount paid, the amount due, and the amount to become
 660 due on the lienor's account.

661 Section 9. Section 713.18, Florida Statutes, is amended to
 662 read:

663 713.18 Manner of serving notices and other instruments.—

664 (1) Service of notices, claims of lien, affidavits,
 665 assignments, and other instruments permitted or required under
 666 this part, or copies thereof when so permitted or required,
 667 unless otherwise specifically provided in this part, must be
 668 made by one of the following methods:

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

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673 (b) By common carrier delivery service or ~~sending the same~~
 674 by registered, Global Express Guaranteed, or certified mail,
 675 with postage or shipping paid by the sender and prepaid, or by
 676 ~~overnight or second-day delivery~~ with evidence of delivery,
 677 which may be in an electronic format.

678 (c) ~~If the method specified in paragraph (a) or paragraph~~
 679 ~~(b) cannot be accomplished~~, By posting on the site of the
 680 improvement if service as provided by paragraph (a) or paragraph
 681 (b) cannot be accomplished premises.

682 (2) Notwithstanding subsection (1), service of ~~if~~ a notice
 683 to owner ~~or~~ a preliminary notice to contractor under s. 255.05,
 684 s. 337.18, or s. 713.23, ~~or a preliminary notice under s. 255.05~~
 685 ~~is mailed by registered or certified mail with postage prepaid~~
 686 ~~to the person to be served at any of the addresses set forth in~~
 687 ~~subsection (3) within 40 days after the date the lienor first~~
 688 ~~furnishes labor, services, or materials, service of that notice~~
 689 is effective as of the date of mailing if:

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

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

696 (c)1. The person who served the notice maintains a
 697 registered or certified mail log that shows the registered or
 698 certified mail number issued by the United States Postal
 699 Service, the name and address of the person served, and the date
 700 stamp of the United States Postal Service confirming the date of

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701 mailing; or ~~if~~

702 2. The person who served the notice maintains electronic

703 tracking records generated by ~~through use of~~ the United States

704 Postal Service ~~Confirm service or a similar service~~ containing

705 the postal tracking number, the name and address of the person

706 served, and verification of the date of receipt by the United

707 States Postal Service.

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

709 section is effective on the date of mailing the instrument if

710 it:

711 1. Is sent to the last address shown in the notice of

712 commencement or any amendment thereto or, in the absence of a

713 notice of commencement, to the last address shown in the

714 building permit application, or to the last known address of the

715 person to be served; and, ~~is not received, but~~

716 2. Is returned as being "refused," "moved, not

717 forwardable," or "unclaimed," or is otherwise not delivered or

718 deliverable through no fault of the person serving the item,

719 ~~then service is effective on the date the instrument was sent.~~

720 (b) If the address shown in the notice of commencement or

721 any amendment to the notice of commencement, or, in the absence

722 of a notice of commencement, in the building permit application,

723 is incomplete for purposes of mailing or delivery, the person

724 serving the item may complete the address and properly format it

725 according to United States Postal Service addressing standards

726 using information obtained from the property appraiser or

727 another public record without affecting the validity of service

728 under this section.

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757

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

759

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

766

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

768

769 The lien of any lienor upon whom such notice is served and who
 770 fails to institute a suit to enforce his or her lien within 60
 771 days after service of such notice shall be extinguished
 772 automatically. The clerk shall serve, in accordance with s.
 773 713.18, ~~mail~~ a copy of the notice of contest to the lien
 774 claimant at the address shown in the claim of lien or most
 775 recent amendment thereto and shall certify to such service and
 776 the date of service on the face of the ~~such~~ notice and record
 777 the notice. ~~Service shall be deemed complete upon mailing.~~

778

779 Section 11. Paragraphs (c), (d), (e), and (f) of
 780 subsection (1) and subsections (2) and (4) of section 713.23,
 Florida Statutes, are amended to read:

781

713.23 Payment bond.—

782

(1)

783

(c) ~~Either~~ Before beginning or within 45 days after

784

beginning to furnish labor, materials, or supplies, a lienor who

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785 is not in privity with the contractor, except a laborer, shall
 786 serve the contractor with notice in writing that the lienor will
 787 look to the contractor's bond for protection on the work. If a
 788 notice of commencement with the attached bond is not recorded
 789 before commencement of construction, ~~or a reference to the bond~~
 790 ~~is not given in the notice of commencement, and in either case~~
 791 ~~if the lienor not in privity with the contractor is not~~
 792 ~~otherwise notified in writing of the existence of the bond~~, the
 793 lienor not in privity with the contractor may, in the
 794 alternative, elect to serve the notice to the contractor up to
 795 ~~shall have~~ 45 days after ~~from~~ the date the lienor is served with
 796 a copy notified of the existence of the bond within which to
 797 serve the notice. A notice to owner pursuant to s. 713.06 that
 798 has been timely served on the contractor satisfies the
 799 requirements of this paragraph. However, the limitation period
 800 for commencement of an action on the payment bond as established
 801 in paragraph (e) may not be expanded. The notice may be in
 802 substantially the following form and may be combined with a
 803 notice to owner given under s. 713.06 and, if so, may be
 804 entitled "NOTICE TO OWNER/NOTICE TO CONTRACTOR:

NOTICE TO CONTRACTOR

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

The undersigned hereby informs you that he or she has furnished
or is furnishing services or materials as follows:

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813 ...(general description of services or materials)... for the
 814 improvement of the real property identified as ...(property
 815 description)... under an order given by ...(lienor's
 816 customer)....

817
 818 This notice is to inform you that the undersigned intends to
 819 look to the contractor's bond to secure payment for the
 820 furnishing of materials or services for the improvement of the
 821 real property.

822
 823 ...(name of lienor)...
 824 ...(signature of lienor or lienor's representative)...
 825 ...(date)...
 826 ...(lienor's address)...

827
 828 ~~The undersigned notifies you that he or she has furnished or is~~
 829 ~~furnishing ...(services or materials)... for the improvement of~~
 830 ~~the real property identified as ...(property description)...~~
 831 ~~owned by ...(owner's name and address)... under an order given~~
 832 ~~by and that the undersigned will look to the contractor's~~
 833 ~~bond for protection on the work.~~

834
 835 ~~...(Lienor's signature and address)...~~

836
 837 (d) In addition, a lienor is required, as a condition
 838 precedent to recovery under the bond, to serve a written notice
 839 of nonpayment to the contractor and the surety not later than 90
 840 days after the final furnishing of labor, services, or materials

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841 by the lienor. A written notice satisfies this condition
 842 precedent with respect to the payment described in the notice of
 843 nonpayment, including unpaid finance charges due under the
 844 lienor's contract, and with respect to any other payments which
 845 become due to the lienor after the date of the notice of
 846 nonpayment. The time period for serving a written notice of
 847 nonpayment shall be measured from the last day of furnishing
 848 labor, services, or materials by the lienor and shall not be
 849 measured by other standards, such as the issuance of a
 850 certificate of occupancy or the issuance of a certificate of
 851 substantial completion. The failure of a lienor to receive
 852 retainage sums not in excess of 10 percent of the value of
 853 labor, services, or materials furnished by the lienor is not
 854 considered a nonpayment requiring the service of the notice
 855 provided under this paragraph. If the payment bond is not
 856 recorded before commencement of construction, the time period
 857 for the lienor to serve a notice of nonpayment may at the option
 858 of the lienor be calculated from the date specified in this
 859 section or the date the lienor is served a copy of the bond.
 860 However, the limitation period for commencement of an action on
 861 the payment bond as established in paragraph (e) may not be
 862 expanded. The notice under this paragraph may be in
 863 substantially the following form:

864
 865 NOTICE OF NONPAYMENT

866
 867 To ... (name of contractor and address) ...
 868

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

870

871 The undersigned notifies you that he or she has furnished
 872 ... (describe labor, services, or materials) ... for the
 873 improvement of the real property identified as ... (property
 874 description) The amount now due and unpaid is \$.....

875

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

877

878 (e) An ~~No~~ action for the labor or materials or supplies
 879 may not be instituted or prosecuted against the contractor or
 880 surety unless both notices have been given, if required by this
 881 section. An ~~No~~ action may not ~~shall~~ be instituted or prosecuted
 882 against the contractor or against the surety on the bond under
 883 this section after 1 year from the performance of the labor or
 884 completion of delivery of the materials and supplies. The time
 885 period for bringing an action against the contractor or surety
 886 on the bond shall be measured from the last day of furnishing
 887 labor, services, or materials by the lienor. The time period ~~and~~
 888 may ~~shall~~ not be measured by other standards, such as the
 889 issuance of a certificate of occupancy or the issuance of a
 890 certificate of substantial completion. A contractor or the
 891 contractor's ~~agent or~~ attorney may elect to shorten the
 892 ~~prescribed~~ time within which an action to enforce any claim
 893 against a payment bond provided under this section or s. 713.245
 894 must ~~may~~ be commenced at any time after a notice of nonpayment,
 895 if required, has been served for the claim by recording in the
 896 clerk's office a notice in substantially the following form:

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NOTICE OF CONTEST OF CLAIM
 AGAINST PAYMENT BOND

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

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

DATED on,

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

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

(f) A ~~Any~~ lienor has a direct right of action on the bond against the surety. Any provision in a payment bond issued on or after October 1, 2012, which further restricts ~~A bond must not~~

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925 ~~contain any provisions restricting~~ the classes of persons who
 926 are protected by the payment bond, which restricts ~~thereby or~~
 927 the venue of any proceeding relating to such payment bond, which
 928 limits or expands the effective duration of the payment bond, or
 929 which adds conditions precedent to the enforcement of a claim
 930 against a payment bond beyond those provided in this part is
 931 unenforceable. The surety is not entitled to the defense of pro
 932 tanto discharge as against any lienor because of changes or
 933 modifications in the contract to which the surety is not a
 934 party; but the liability of the surety may not be increased
 935 beyond the penal sum of the bond. A lienor may not waive in
 936 advance his or her right to bring an action under the bond
 937 against the surety.

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

948
 949 NOTICE OF BOND

950
 951 To ... (Name and Address of Lienor) ...
 952

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953 You are notified that the claim of lien filed by you on ,
 954 , and recorded in Official Records Book at page of
 955 the public records of County, Florida, is secured by a
 956 bond, a copy being attached.

957
 958 Signed: . . . (Name of person recording notice) . . .
 959

960 The notice shall be verified. The person recording the notice of
 961 bond ~~clerk~~ shall serve mail a copy of the notice with a copy of
 962 the bond to the lienor at the address shown in the claim of
 963 lien, or the most recent amendment to it; shall certify to the
 964 service on the face of the notice; and shall record the notice.
 965 ~~The clerk shall receive the same fee as prescribed in s.~~
 966 ~~713.24(1) for certifying to a transfer of lien.~~

967 (4) The provisions of s. 713.24(3) ~~shall~~ apply to bonds
 968 under this section except when those provisions conflict with
 969 this section.

970 Section 12. Except as otherwise expressly provided in this
 971 act, this act shall take effect October 1, 2012.
 972