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The 2013 Florida Statutes

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CHAPTER 713
LIENS, GENERALLY

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713.001 Short title of part.—This part may be cited as the “Construction Lien Law.”

History.—s. 1, ch. 90-109.

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

- (1) “Abandoned property” means all tangible personal property that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition.
- (2) “Architect” means a person or firm that is authorized to practice architecture pursuant to chapter 481 or a general contractor who provides architectural services under a design-build contract authorized by s. 481.229(3).
- (3) “Claim of lien” means the claim recorded as provided in s. 713.08.
- (4) “Clerk’s office” means the office of the clerk of the circuit court of the county in which the real property is located.
- (5) “Commencement of the improvement” means the time of filing for record of the notice of

commencement provided in s. 713.13.

(6) “Contract” means an agreement for improving real property, written or unwritten, express or implied, and includes extras or change orders.

(7) “Contract price” means the amount agreed upon by the contracting parties for performing all labor and services and furnishing all materials covered by their contract and must be increased or diminished by the price of extras or change orders, or by any amounts attributable to changes in the scope of the work or defects in workmanship or materials or any other breaches of the contract; but no penalty or liquidated damages between the owner and a contractor diminishes the contract price as to any other lienor. If no price is agreed upon by the contracting parties, this term means the value of all labor, services, or materials covered by their contract, with any increases and diminutions, as provided in this subsection. Allowance items are a part of the contract when accepted by the owner.

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

(9) “Direct contract” means a contract between the owner and any other person.

(10) “Engineer” means a person or firm that is authorized to practice engineering pursuant to chapter 471 or a general contractor who provides engineering services under a design-build contract authorized by s. 471.003(2)(i).

(11) “Extras or change orders” means labor, services, or materials for improving real property authorized by the owner and added to or deleted from labor, services, or materials covered by a previous contract between the same parties.

(12) “Final furnishing” means the last date that the lienor furnishes labor, services, or materials. Such date may not be measured by other standards, such as the issuance of a certificate of occupancy or the issuance of a certificate of final completion, and does not include correction of deficiencies in the lienor’s previously performed work or materials supplied. With respect to rental equipment, the term means the date that the rental equipment was last on the job site and available for use.

(13) “Furnish materials” means supply materials which are incorporated in the improvement including normal wastage in construction operations; or specially fabricated materials for incorporation in the improvement, not including any design work, submittals, or the like preliminary to actual fabrication of the materials; or supply materials used for the construction and not remaining in the improvement, subject to diminution by the salvage value of such materials; and includes supplying rental equipment, but does not include supplying handtools. The delivery of materials to the site of the improvement is prima facie evidence of incorporation of such materials in the improvement. The delivery of rental equipment to the site of the improvement is prima facie evidence of the period of the actual use of the rental equipment from the delivery through the time the equipment is last available for use at the site, or 2 business days after the lessor of the rental equipment receives a written notice from the owner or the lessee of the rental equipment to pick up the equipment, whichever occurs first.

(14) “Improve” means build, erect, place, make, alter, remove, repair, or demolish any improvement over, upon, connected with, or beneath the surface of real property, or excavate any land, or furnish materials for any of these purposes, or perform any labor or services upon the improvements, including the furnishing of carpet or rugs or appliances that are permanently affixed to the real property and final construction cleanup to prepare a structure for occupancy; or perform any labor or services or furnish any materials in grading, seeding, sodding, or planting for landscaping purposes, including the furnishing of trees, shrubs, bushes, or plants that are planted on the real property, or in equipping any improvement with fixtures

or permanent apparatus or provide any solid-waste collection or disposal on the site of the improvement.

(15) "Improvement" means any building, structure, construction, demolition, excavation, solid-waste removal, landscaping, or any part thereof existing, built, erected, placed, made, or done on land or other real property for its permanent benefit.

(16) "Laborer" means any person other than an architect, landscape architect, engineer, surveyor and mapper, and the like who, under properly authorized contract, personally performs on the site of the improvement labor or services for improving real property and does not furnish materials or labor service of others.

(17) "Lender" means any person who loans money to an owner for construction of an improvement to real property, who secures that loan by recording a mortgage on the real property, and who periodically disburses portions of the proceeds of that loan for the payment of the improvement.

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

(a) A contractor;

(b) A subcontractor;

(c) A sub-subcontractor;

(d) A laborer;

(e) A materialman who contracts with the owner, a contractor, a subcontractor, or a sub-subcontractor; or

(f) A professional lienor under s. 713.03;

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

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

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

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

(22) "Notice of commencement" means the notice recorded as provided in s. 713.13.

(23) "Owner" means a person who is the owner of any legal or equitable interest in real property, which interest can be sold by legal process, and who enters into a contract for the improvement of the real property. The term includes a condominium association pursuant to chapter 718 as to improvements made to association property or common elements. The term does not include any political subdivision, agency, or department of the state, a municipality, or other governmental entity.

(24) "Perform" or "furnish" when used in connection with the words "labor" or "services" or "materials" means performance or furnishing by the lienor or by another for him or her.

(25) "Post" or "posting" means placing the document referred to on the site of the improvement in a conspicuous place at the front of the site and in a manner that protects the document from the weather.

(26) "Real property" means the land that is improved and the improvements thereon, including fixtures, except any such property owned by the state or any county, municipality, school board, or governmental agency, commission, or political subdivision.

(27) "Site of the improvement" means the real property which is being improved and on which labor or services are performed or materials furnished in furtherance of the operations of improving such real property. In cases of removal, without demolition and under contract, of an improvement from one lot, parcel, or tract of land to another, this term means the real property to which the improvement is removed.

(28) "Subcontractor" means a person other than a materialman or laborer who enters into a contract with

a contractor for the performance of any part of such contractor's contract, including the removal of solid waste from the real property. The term includes a temporary help firm as defined in s. 443.101.

(29) "Sub-subcontractor" means a person other than a materialman or laborer who enters into a contract with a subcontractor for the performance of any part of such subcontractor's contract, including the removal of solid waste from the real property. The term includes a temporary help firm as defined in s. 443.101.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 1, ch. 77-353; s. 1, ch. 80-97; s. 2, ch. 90-109; s. 1, ch. 91-102; s. 3, ch. 92-286; ss. 120, 317, ch. 94-119; s. 800, ch. 97-102; s. 2, ch. 98-135; s. 71, ch. 99-3; s. 2, ch. 2001-164; s. 4, ch. 2001-211; s. 2, ch. 2007-221.

Note.—Former s. 84.011.

713.012 Written notices, demands, or requests.—Notices, demands, or requests permitted or required under this part, except any required by s. 713.14, must be in writing.

History.—s. 3, ch. 2007-221.

713.015 Mandatory provisions for direct contracts.—

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

ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER." FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS RECOMMENDED THAT YOU CONSULT AN ATTORNEY.

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

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

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

History.—s. 1, ch. 2003-177; s. 5, ch. 2005-227; s. 4, ch. 2007-221.

713.02 Types of lienors and exemptions.—

(1) Persons performing the services described in s. 713.03 shall have rights to a lien on real property as provided in that section.

(2) Persons performing services or furnishing materials for subdivision improvements as described in s. 713.04 shall have rights to a lien on real property as provided in that section.

(3) Persons who are in privity with an owner and who perform labor or services or furnish materials

constituting an improvement or part thereof shall have rights to a lien on real property as provided in s. 713.05.

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

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

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

(7) Notwithstanding any other provision of this part, no lien shall exist in favor of any contractor, subcontractor, or sub-subcontractor who is unlicensed as provided in s. 489.128 or s. 489.532.

Notwithstanding any other provision of this part, if a contract is rendered unenforceable by an unlicensed contractor, subcontractor, or sub-subcontractor pursuant to s. 489.128 or s. 489.532, such unenforceability shall not affect the rights of any other persons to enforce contract, lien, or bond remedies and shall not affect the obligations of a surety that has provided a bond on behalf of the unlicensed contractor, subcontractor, or sub-subcontractor. It shall not be a defense to any claim on a bond or indemnity agreement that the principal or indemnitor is unlicensed as provided in s. 489.128 or s. 489.532.

History.—s. 1, ch. 63-135; s. 1, ch. 67-210; s. 35, ch. 67-254; s. 7, ch. 69-97; ss. 2, 17, ch. 77-353; s. 1, ch. 78-397; s. 2, ch. 87-74; s. 15, ch. 87-310; s. 3, ch. 88-397; s. 801, ch. 97-102; s. 5, ch. 2001-211; s. 3, ch. 2003-257; s. 6, ch. 2005-227; s. 5, ch. 2007-221.

Note.—Former s. 84.022.

713.03 Liens for professional services.—

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

(2) Any architect, landscape architect, interior designer, engineer, or surveyor and mapper who has a direct contract and who in the practice of his or her profession shall perform services, by himself or herself or others, in connection with a specific parcel of real property and subject to said compliances and limitations, shall have a lien upon such real property for the money owing to him or her for his or her professional services, regardless of whether such real property is actually improved.

(3) No liens under this section shall be acquired until a claim of lien is recorded. No lienor under this section shall be required to serve a notice to owner as provided in s. 713.06(2) or an affidavit concerning unpaid lienors as provided in s. 713.06(3).

History.—s. 1, ch. 63-135; s. 1, ch. 65-456; s. 35, ch. 67-254; s. 3, ch. 77-353; s. 2, ch. 85-103; s. 3, ch. 90-109; s. 121, ch. 94-119; s. 802, ch. 97-102.

Note.—Former s. 84.031.

713.04 Subdivision improvements.—

(1) Any lienor who, regardless of privity, performs services or furnishes material to real property for the purpose of making it suitable as the site for the construction of an improvement or improvements shall be entitled to a lien on the real property for any money that is owed to her or him for her or his services or materials furnished in accordance with her or his contract and the direct contract. The total amount of liens

allowed under this section shall not exceed the amount of the direct contract under which the lienor furnishes labor, materials, or services. The work of making real property suitable as the site of an improvement shall include but shall not be limited to the grading, leveling, excavating, and filling of land, including the furnishing of fill soil; the grading and paving of streets, curbs, and sidewalks; the construction of ditches and other area drainage facilities; the laying of pipes and conduits for water, gas, electric, sewage, and drainage purposes; and the construction of canals and shall also include the altering, repairing, and redoing of all these things. When the services or materials are placed on land dedicated to public use and are furnished under contract with the owner of the abutting land, the cost of the services and materials, if unpaid, may be the basis for a lien upon the abutting land. When the services or materials are placed upon land under contract with the owner of the land who subsequently dedicates parts of the land to public use, the person furnishing the services or materials placed upon the dedicated land shall be entitled to a lien upon the land abutting the dedicated land for the unpaid cost of the services and materials placed upon the dedicated land, or in the case of improvements that serve or benefit real property that is divided by the improvements, to a lien upon each abutting part for the equitable part of the full amount due and owing. If the part of the cost to be borne by each parcel of the land subject to the same lien is not specified in the contract, it shall be prorated equitably among the parcels served or benefited. No lien under this section shall be acquired until a claim of lien is recorded. No notice of commencement shall be filed for liens under this section. No lienor shall be required to serve a notice to owner for liens under this section.

(2) If a lienor under this section who is not in privity with the owner serves a notice on the owner in accordance with the provisions of s. 713.06(2), payment of liens by the owner under this section shall be governed by s. 713.06(3)(c), (d), (e), (f), (g), (h), and (4).

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

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

History.—s. 1, ch. 63-135; s. 2, ch. 65-456; s. 35, ch. 67-254; s. 2, ch. 80-97; s. 2, ch. 86-247; s. 803, ch. 97-102; s. 7, ch. 2005-227.

Note.—Former s. 84.041.

713.05 Liens of persons in privity.—A materialman or laborer, either of whom is in privity with the owner, or a contractor who complies with the provisions of this part shall, subject to the limitations thereof, have a lien on the real property improved for any money that is owed to him or her for labor, services, materials, or other items required by, or furnished in accordance with, the direct contract and for unpaid finance charges due under the lienor's contract. A materialman or laborer, in privity with the owner, or a contractor shall also have a lien on the owner's real property for any money that is owed to him or her for labor, services, or materials furnished to improve public property if the improvements to the public property are a condition of the permit to improve the owner's real property. No lien under this section shall be acquired until a claim of lien is recorded. A lienor who, as a subcontractor, sub-subcontractor, laborer, or materialman not in privity with the owner, commences to furnish labor, services, or material to an improvement and who thereafter becomes in privity with the owner shall have a lien for any money that is owed to him or her for the labor, services, or materials furnished after he or she becomes in privity with the owner. A lienor may record one claim of lien to cover both his or her work done in privity with the owner and not in privity with the owner. No lienor under this section shall be required to serve a notice to owner as provided in s. 713.06(2). A lienor, except a laborer or materialman, who is in privity with the owner and claims a lien under this section

shall furnish the contractor's affidavit required in s. 713.06(3)(d). A contractor may claim a lien for any labor, services, or materials furnished by another lienor for which he or she is obligated to pay the lienor, regardless of the right of the lienor to claim a lien; but, if the lienor claims a valid lien, the contractor shall not recover the amount of the lien recovered by the lienor, and the amount of the contractor's claim of lien may be reduced accordingly by court order. No person shall have a lien under this section except those lienors specified in it, as their designations are defined in s. 713.01.

History.—s. 1, ch. 63-135; s. 3, ch. 65-456; s. 2, ch. 67-210; s. 35, ch. 67-254; s. 4, ch. 77-353; s. 3, ch. 80-97; s. 1, ch. 96-383; s. 1763, ch. 97-102.

Note.—Former s. 84.051.

713.06 Liens of persons not in privity; proper payments.—

(1) A materialman or laborer, either of whom is not in privity with the owner, or a subcontractor or sub-subcontractor who complies with the provisions of this part and is subject to the limitations thereof, has a lien on the real property improved for any money that is owed to him or her for labor, services, or materials furnished in accordance with his or her contract and with the direct contract and for any unpaid finance charges due under the lienor's contract. A materialman or laborer, either of whom is not in privity with the owner, or a subcontractor or sub-subcontractor who complies with the provisions of this part and is subject to the limitations thereof, also has a lien on the owner's real property for labor, services, or materials furnished to improve public property if the improvement of the public property is furnished in accordance with his or her contract and with the direct contract. The total amount of all liens allowed under this part for furnishing labor, services, or material covered by any certain direct contract must not exceed the amount of the contract price fixed by the direct contract except as provided in subsection (3). No person may have a lien under this section except those lienors specified in it, as their designations are defined in s. 713.01.

(2)(a) All lienors under this section, except laborers, as a prerequisite to perfecting a lien under this chapter and recording a claim of lien, must serve a notice on the owner setting forth the lienor's name and address, a description sufficient for identification of the real property, and the nature of the services or materials furnished or to be furnished. A sub-subcontractor or a materialman to a subcontractor must serve a copy of the notice on the contractor as a prerequisite to perfecting a lien under this chapter and recording a claim of lien. A materialman to a sub-subcontractor must serve a copy of the notice to owner on the contractor as a prerequisite to perfecting a lien under this chapter and recording a claim of lien. A materialman to a sub-subcontractor shall serve the notice to owner on the subcontractor if the materialman knows the name and address of the subcontractor. The notice must be served before commencing, or not later than 45 days after commencing, to furnish his or her labor, services, or materials, but, in any event, before the date of the owner's disbursement of the final payment after the contractor has furnished the affidavit under subparagraph (3)(d)1. The notice must be served regardless of the method of payments by the owner, whether proper or improper, and does not give to the lienor serving the notice any priority over other lienors in the same category; and the failure to serve the notice, or to timely serve it, is a complete defense to enforcement of a lien by any person. The serving of the notice does not dispense with recording the claim of lien. The notice is not a lien, cloud, or encumbrance on the real property nor actual or constructive notice of any of them.

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

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

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

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

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

NOTICE TO OWNER

To (Owner's name and address)

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

(General description of services or materials) for the improvement of the real property identified as (property description) under an order given by .

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

IMPORTANT INFORMATION FOR YOUR PROTECTION

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

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

PROTECT YOURSELF:

–RECOGNIZE that this Notice to Owner may result in a lien against your property unless all those supplying a Notice to Owner have been paid.

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

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

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

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

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

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

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

1. The owner shall pay or cause to be paid, within the limitations imposed by subparagraph 2., the sum then due to each lienor giving notice prior to the time of the payment. The owner may require, and, in such event, the contractor shall furnish as a prerequisite to requiring payment to himself or herself, an affidavit as prescribed in subparagraph (d)1., on any payment made, or to be made, on a direct contract, but the furnishing of the affidavit shall not relieve the owner of his or her responsibility to pay or cause to be paid all lienors giving notice. The owner shall be under no obligation to any lienor, except laborers, from whom he or she has not received a notice to owner at the time of making a payment.

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

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

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

5. If the contract is terminated before completion, the contractor shall comply with subparagraph (d)1.

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

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

CONTRACTOR'S FINAL PAYMENT AFFIDAVIT

State of Florida

County of

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

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

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

3. This affidavit is executed by the Contractor in accordance with section 713.06 of the Florida Statutes for the purposes of obtaining final payment from the Owner in the amount of \$.

4. All work to be performed under the contract has been fully completed, and all lienors under the direct contract have been paid in full, except the following listed lienors:

NAME OF LIENOR AMOUNT DUE

Signed, sealed, and delivered this day of , ,

By (name of affiant)
(title of affiant)
(name of contractor's business)

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

(name of notary public)

Notary Public

My Commission Expires:

(date of expiration of commission)

The contractor shall have no lien or right of action against the owner for labor, services, or materials furnished under the direct contract while in default for not giving the owner the affidavit; however, the negligent inclusion or omission of any information in the affidavit which has not prejudiced the owner does not constitute a default that operates to defeat an otherwise valid lien. The contractor shall execute the affidavit and deliver it to the owner at least 5 days before instituting an action as a prerequisite to the institution of any action to enforce his or her lien under this chapter, even if the final payment has not become due because the contract is terminated for a reason other than completion and regardless of whether the contractor has any lienors working under him or her or not.

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

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

contractor fails to furnish the difference within 10 days from delivery of the affidavit or notice from the owner to the contractor to furnish the affidavit, the owner shall determine the amount due each lienor and shall disburse to them the amounts due from him or her on a direct contract in accordance with the procedure established by subsection (4).

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

5. The owner shall retain the final payment due under the direct contract that shall not be disbursed until the contractor's affidavit under subparagraph 1. has been furnished to the owner.

6. When final payment has become due to the contractor and the owner fails to withhold as required by subparagraph 5., the property improved shall be subject to the full amount of all valid liens of which the owner has notice at the time the contractor furnishes his or her affidavit.

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

(f) No contractor shall have any right to require the owner to pay any money to him or her under a direct contract if such money cannot be properly paid by the owner to the contractor in accordance with this section.

(g) Except with written consent of the contractor, before paying any money directly to any lienor except the contractor or any laborer, the owner shall give the contractor at least 10 days' written notice of his or her intention to do so, and the amount he or she proposes to pay each lienor.

(h) When the owner has properly retained all sums required in this section to be retained but has otherwise made improper payments, the owner's real property shall be liable to all laborers, subcontractors, sub-subcontractors, and materialmen complying with this chapter only to the extent of the retentions and the improper payments, notwithstanding the other provisions of this subsection. Any money paid by the owner on a direct contract, the payment of which is proved to have caused no detriment to any certain lienor, shall be held properly paid as to the lienor, and if any of the money shall be held not properly paid as to any other lienors, the entire benefit of its being held not properly paid as to them shall go to the lienors.

(4)(a) In determining the amounts for which liens between lienors claiming under a direct contract shall be paid by the owner or allowed by the court within the total amount fixed by the direct contract and under the provisions of this section, the owner or court shall pay or allow such liens in the following order:

1. Liens of all laborers.
2. Liens of all persons other than the contractor.
3. Lien of the contractor.

(b) Should the total amount for which liens under such direct contract may be allowed be less than the total amount of liens under such contract in all classes above mentioned, all liens in a class shall be allowed for their full amounts before any liens shall be allowed to any subsequent class. Should the amount applicable to the liens of any single class be insufficient to permit all liens within that class to be allowed for their full amounts, each lien shall be allowed for its pro rata share of the total amount applicable to liens of that class; but if the same labor, services, or materials shall be covered by liens of more than one class, such labor, services, or materials shall be allowed only in the earliest class by which they shall be covered; and also if the same labor, services, or materials shall be covered by liens of two or more lienors of the same class, such labor, services, or materials shall be allowed only in the lien of the lienor farthest removed from the contractor. This section shall not be construed to affect the priority of liens derived under separate direct

contracts.

History.—s. 1, ch. 63-135; ss. 4, 5, ch. 65-456; s. 35, ch. 67-254; s. 1, ch. 75-227; s. 5, ch. 77-353; s. 4, ch. 80-97; s. 3, ch. 87-74; s. 4, ch. 90-109; s. 1, ch. 93-99; s. 318, ch. 94-119; s. 229, ch. 94-218; s. 2, ch. 96-383; s. 1764, ch. 97-102; s. 2, ch. 97-219; s. 3, ch. 98-135; s. 3, ch. 99-386; ss. 2, 3, ch. 2003-177.

Note.—Former s. 84.061.

713.07 Priority of liens.—

(1) Liens under ss. 713.03 and 713.04 shall attach at the time of recordation of the claim of lien and shall take priority as of that time.

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

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

(4) If construction ceases or the direct contract is terminated before completion and the owner desires to recommence construction, he or she may pay all lienors in full or pro rata in accordance with s. 713.06(4) prior to recommencement in which event all liens for the recommenced construction shall take priority from such recommencement; or the owner may record an affidavit in the clerk's office stating his or her intention to recommence construction and that all lienors giving notice have been paid in full except those listed therein as not having been so paid in which event 30 days after such recording, the rights of any person acquiring any interest, lien, or encumbrance on said property or of any lienor on the recommenced construction shall be paramount to any lien on the prior construction unless such prior lienor records a claim of lien within said 30-day period. A copy of said affidavit shall be served on each lienor named therein. Before recommencing, the owner shall record and post a notice of commencement for the recommenced construction, as provided in s. 713.13.

History.—s. 1, ch. 63-135; s. 6, ch. 65-456; s. 35, ch. 67-254; s. 804, ch. 97-102; s. 6, ch. 2007-221.

Note.—Former s. 84.071.

713.08 Claim of lien.—

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

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

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

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

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

(e) The name of the owner.

(f) The time when the first and the last item of labor or service or materials was furnished.

(g) The amount unpaid the lienor for such labor or services or materials and for unpaid finance charges due under the lienor's contract.

(h) If the lien is claimed by a person not in privity with the owner, the date and method of service of the notice to owner. If the lien is claimed by a person not in privity with the contractor or subcontractor, the date and method of service of the copy of the notice on the contractor or subcontractor.

(2) The claim of lien may be prepared by the lienor or the lienor's employee or attorney and shall be signed and sworn to or affirmed by the lienor or the lienor's agent acquainted with the facts stated therein.

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

WARNING!

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

CLAIM OF LIEN

State of
County of

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

(Legal description of real property)

owned by of a total value of \$, of which there remains unpaid \$, and furnished the first of the items on , (year), and the last of the items on , (year); and (if the lien is claimed by one not in privity with the owner) that the lienor served her or his notice to owner on , (year), by ; and (if required) that the lienor served copies of the notice on the contractor on , (year), by and on the subcontractor, , on , (year), by .

(Signature)

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

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

(4)(a) The omission of any of the foregoing details or errors in such claim of lien shall not, within the discretion of the trial court, prevent the enforcement of such lien as against one who has not been adversely affected by such omission or error.

(b) Any claim of lien recorded as provided in this part may be amended at any time during the period allowed for recording such claim of lien, provided that such amendment shall not cause any person to suffer any detriment by having acted in good faith in reliance upon such claim of lien as originally recorded. Any amendment of the claim of lien shall be recorded in the same manner as provided for recording the original claim of lien.

(c) The claim of lien shall be served on the owner. Failure to serve any claim of lien in the manner provided in s. 713.18 before recording or within 15 days after recording shall render the claim of lien voidable to the extent that the failure or delay is shown to have been prejudicial to any person entitled to rely on the

service.

(5) The claim of lien may be recorded at any time during the progress of the work or thereafter but not later than 90 days after the final furnishing of the labor or services or materials by the lienor. However, if the original contract is terminated under s. 713.07(4), a claim for a lien attaching prior to such termination may not be recorded after 90 days following the date of such termination or 90 days after the final furnishing of labor, services, or materials by the lienor, whichever occurs first. The claim of lien shall be recorded in the clerk's office. If such real property is situated in two or more counties, the claim of lien shall be recorded in the clerk's office in each of such counties. The recording of the claim of lien shall be constructive notice to all persons of the contents and effect of such claim. The validity of the lien and the right to record a claim therefor shall not be affected by the insolvency, bankruptcy, or death of the owner before the claim of lien is recorded.

History.—s. 1, ch. 63-135; s. 7, ch. 65-456; s. 35, ch. 67-254; s. 6, ch. 77-353; s. 5, ch. 80-97; s. 4, ch. 92-286; s. 3, ch. 96-383; s. 1765, ch. 97-102; s. 13, ch. 98-246; s. 4, ch. 99-386; s. 4, ch. 2003-177; s. 8, ch. 2005-227; s. 7, ch. 2007-221.

Note.—Former s. 84.081.

713.09 Single claim of lien.—A lienor is required to record only one claim of lien covering his or her entire demand against the real property when the amount demanded is for labor or services or material furnished for more than one improvement under the same direct contract. The single claim of lien is sufficient even though the improvement is for one or more improvements located on separate lots, parcels, or tracts of land. If materials to be used on one or more improvements on separate lots, parcels, or tracts of land under one direct contract are delivered by a lienor to a place designated by the person with whom the materialman contracted, other than the site of the improvement, the delivery to the place designated is prima facie evidence of delivery to the site of the improvement and incorporation in the improvement. The single claim of lien may be limited to a part of multiple lots, parcels, or tracts of land and their improvements or may cover all of the lots, parcels, or tracts of land and improvements. In each claim of lien under this section, the owner under the direct contract must be the same person for all lots, parcels, or tracts of land against which a single claim of lien is recorded.

History.—s. 1, ch. 63-135; s. 8, ch. 65-456; s. 35, ch. 67-254; s. 6, ch. 80-97; s. 5, ch. 90-109; s. 805, ch. 97-102.

Note.—Former s. 84.091.

713.10 Extent of liens.—

(1) Except as provided in s. 713.12, a lien under this part shall extend to, and only to, the right, title, and interest of the person who contracts for the improvement as such right, title, and interest exists at the commencement of the improvement or is thereafter acquired in the real property. When an improvement is made by a lessee in accordance with an agreement between such lessee and her or his lessor, the lien shall extend also to the interest of such lessor.

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

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

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

2. The terms of the lease expressly prohibit such liability, and a notice advising that leases for the rental

of premises on a parcel of land prohibit such liability has been recorded in the official records of the county in which the parcel of land is located before the recording of a notice of commencement for improvements to the premises, and the notice includes the following:

- a. The name of the lessor.
- b. The legal description of the parcel of land to which the notice applies.
- c. The specific language contained in the various leases prohibiting such liability.
- d. A statement that all or a majority of the leases entered into for premises on the parcel of land expressly prohibit such liability.

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

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

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

WARNING

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

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 1, ch. 85-103; s. 1, ch. 92-148; s. 806, ch. 97-102; s. 1, ch. 2011-212; s. 4, ch. 2012-211.

Note.—Former s. 84.101.

713.11 Liens for improving land in which the contracting party has no interest.—When the person contracting for improving real property has no interest as owner in the land, no lien shall attach to the land, except as provided in s. 713.12, but if removal of such improvement from the land is practicable, the lien of a lienor shall attach to the improvement on which he or she has performed labor or services or for which he or she has furnished materials. The court, in the enforcement of such lien, may order such improvement to be separately sold and the purchaser may remove it within such reasonable time as the court may fix. The purchase price for such improvement shall be paid into court. The owner of the land upon which the improvement was made may demand that the land be restored substantially to its condition before the improvement was commenced, in which case the court shall order its restoration and the reasonable charge therefor shall be first paid out of such purchase price and the remainder shall be paid to lienors and other encumbrancers in accordance with their respective rights.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 807, ch. 97-102.

Note.—Former s. 84.111.

713.12 Liens for improving real property under contract with husband or wife on property of the other or of both.—When the contract for improving real property is made with a husband or wife who is not separated and living apart from his or her spouse and the property is owned by the other or by both, the spouse who contracts shall be deemed to be the agent of the other to the extent of subjecting the right, title, or interest of the other in said property to liens under this part unless such other shall, within 10 days after learning of such contract, give the contractor and record in the clerk’s office, notice of his or her objection thereto.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254.

Note.—Former s. 84.121.

713.13 Notice of commencement.—

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

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

2. A general description of the improvement.

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

4. The name and address of the contractor.

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

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

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

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

(c) If the contract between the owner and a contractor named in the notice of commencement expresses a period of time for completion for the construction of the improvement greater than 1 year, the notice of commencement must state that it is effective for a period of 1 year plus any additional period of time. Any payments made by the owner after the expiration of the notice of commencement are considered improper payments.

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

Permit No.

Tax Folio No.

NOTICE OF COMMENCEMENT

State of

County of

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

1. Description of property: (legal description of the property, and street address if available) .
2. General description of improvement: .
3. Owner information or Lessee information if the Lessee contracted for the improvement:
 - a. Name and address: .
 - b. Interest in property: .
 - c. Name and address of fee simple titleholder (if different from Owner listed above): .
- 4.a. Contractor: (name and address) .
 - b. Contractor's phone number: .
5. Surety (if applicable, a copy of the payment bond is attached):
 - a. Name and address: .
 - b. Phone number: .
 - c. Amount of bond: \$.
- 6.a. Lender: (name and address) .
 - b. Lender's phone number: .
7. Persons within the State of Florida designated by Owner upon whom notices or other documents may be served as provided by Section 713.13(1)(a)7., Florida Statutes:
 - a. Name and address: .
 - b. Phone numbers of designated persons: .
- 8.a. In addition to himself or herself, Owner designates of to receive a copy of the Lienor's Notice as provided in Section 713.13(1)(b), Florida Statutes.
 - b. Phone number of person or entity designated by owner: .
9. Expiration date of notice of commencement (the expiration date will be 1 year from the date of recording unless a different date is specified) .

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

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

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

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

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

(3) The recording of a notice of commencement does not constitute a lien, cloud, or encumbrance on real property, but gives constructive notice that claims of lien under this part may be recorded and may take priority as provided in s. 713.07. The posting of a copy does not constitute a lien, cloud, or encumbrance on real property, nor actual or constructive notice of any of them.

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

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

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

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

(7) A lender must, prior to the disbursement of any construction funds to the contractor, record the notice of commencement in the clerk's office as required by this section; however, the lender is not required to post a certified copy of the notice at the construction site. The posting of the notice at the construction site remains the owner's obligation. The failure of a lender to record the notice of commencement as required by this subsection renders the lender liable to the owner for all damages sustained by the owner as a result of the failure. Whenever a lender is required to record a notice of commencement, the lender shall designate the lender, in addition to others, to receive copies of notices to owner. This subsection does not give any person other than the owner a claim or right of action against a lender for failure to record a notice of commencement.

History.—s. 1, ch. 63-135; s. 9, ch. 65-456; s. 35, ch. 67-254; s. 14, ch. 77-353; s. 7, ch. 80-97; s. 4, ch. 88-397; s. 6, ch. 90-109; s. 2, ch. 91-102; s. 4, ch. 96-383; s. 1766, ch. 97-102; s. 14, ch. 98-246; s. 6, ch. 2001-211; s. 9, ch. 2005-227; s. 8, ch. 2007-221; s. 2, ch. 2011-212; s. 5, ch. 2012-211.

Note.—Former s. 84.131.

713.132 Notice of termination.—

- (1) An owner may terminate the period of effectiveness of a notice of commencement by executing, swearing to, and recording a notice of termination that contains:
 - (a) The same information as the notice of commencement;
 - (b) The recording office document book and page reference numbers and date of the notice of commencement;
 - (c) A statement of the date as of which the notice of commencement is terminated, which date may not be earlier than 30 days after the notice of termination is recorded;
 - (d) A statement specifying that the notice applies to all the real property subject to the notice of commencement or specifying the portion of such real property to which it applies;
 - (e) A statement that all lienors have been paid in full; and
 - (f) A statement that the owner has, before recording the notice of termination, served a copy of the notice of termination on the contractor and on each lienor who has a direct contract with the owner or who has served a notice to owner. The owner is not required to serve a copy of the notice of termination on any lienor who has executed a waiver and release of lien upon final payment in accordance with s. 713.20.
- (2) An owner has the right to rely on a contractor's affidavit given under s. 713.06(3)(d), except with respect to lienors who have already given notice, in connection with the execution, swearing to, and recording of a notice of termination. However, the notice of termination must be accompanied by the contractor's affidavit.
- (3) An owner may not record a notice of termination except after completion of construction, or after construction ceases before completion and all lienors have been paid in full or pro rata in accordance with s. 713.06(4). If an owner or a contractor, by fraud or collusion, knowingly makes any fraudulent statement or affidavit in a notice of termination or any accompanying affidavit, the owner and the contractor, or either of them, as the case may be, is liable to any lienor who suffers damages as a result of the filing of the fraudulent notice of termination; and any such lienor has a right of action for damages occasioned thereby.
- (4) A notice of termination is effective to terminate the notice of commencement at the later of 30 days after recording of the notice of termination or the date stated in the notice of termination as the date on which the notice of commencement is terminated, if the notice of termination has been served pursuant to paragraph (1)(f) on the contractor and on each lienor who has a direct contract with the owner or who has served a notice to owner.

History.—s. 7, ch. 90-109; s. 5, ch. 92-286; s. 3, ch. 97-219; s. 4, ch. 98-135; s. 7, ch. 2012-211.

713.135 Notice of commencement and applicability of lien.—

- (1) When any person applies for a building permit, the authority issuing such permit shall:
 - (a) Print on the face of each permit card in no less than 14-point, capitalized, boldfaced type: “WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY 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 RECORDING YOUR NOTICE OF COMMENCEMENT.”
 - (b) Provide the applicant and the owner of the real property upon which improvements are to be constructed with a printed statement stating that the right, title, and interest of the person who has contracted for the improvement may be subject to attachment under the Construction Lien Law. The Department of Business and Professional Regulation shall furnish, for distribution, the statement described in this paragraph, and the statement must be a summary of the Construction Lien Law and must include an explanation of the provisions of the Construction Lien Law relating to the recording, and the posting of copies, of notices of commencement and a statement encouraging the owner to record a notice of

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

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

(d) Furnish to the applicant two or more copies of a form of notice of commencement conforming with s. 713.13. If the direct contract is greater than \$2,500, the applicant shall file with the issuing authority prior to the first inspection either a certified copy of the recorded notice of commencement or a notarized statement that the notice of commencement has been filed for recording, along with a copy thereof. In the absence of the filing of a certified copy of the recorded notice of commencement, the issuing authority or a private provider performing inspection services may not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, or any other means such certified copy with the issuing authority. The certified copy of the notice of commencement must contain the name and address of the owner, the name and address of the contractor, and the location or address of the property being improved. The issuing authority shall verify that the name and address of the owner, the name of the contractor, and the location or address of the property being improved which is contained in the certified copy of the notice of commencement is consistent with the information in the building permit application. The issuing authority shall provide the recording information on the certified copy of the recorded notice of commencement to any person upon request. This subsection does not require the recording of a notice of commencement prior to the issuance of a building permit. If a local government requires a separate permit or inspection for installation of temporary electrical service or other temporary utility service, land clearing, or other preliminary site work, such permits may be issued and such inspections may be conducted without providing the issuing authority with a certified copy of a recorded notice of commencement or a notarized statement regarding a recorded notice of commencement. This subsection does not apply to a direct contract to repair or replace an existing heating or air-conditioning system in an amount less than \$7,500.

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

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

(3) An issuing authority under subsection (1) is not liable in any civil action for the failure to verify that a certified copy of the recorded notice of commencement has been filed in accordance with this section.

(4) The several boards of county commissioners, municipal councils, or other similar bodies may by ordinance or resolution establish reasonable fees for furnishing copies of the forms and the printed statement provided in paragraphs (1)(b) and (d) in an amount not to exceed \$5 to be paid by the applicant for each

permit in addition to all other costs of the permit; however, no forms or statement need be furnished, mailed, or otherwise provided to, nor may such additional fee be obtained from, applicants for permits in those cases in which the owner of a legal or equitable interest (including that of ownership of stock of a corporate landowner) of the real property to be improved is engaged in the business of construction of buildings for sale to others and intends to make the improvements authorized by the permit on the property and upon completion will offer the improved real property for sale.

(5) In addition to any other information required by the authority issuing the permit, each building permit application must contain:

- (a) The name and address of the owner of the real property;
- (b) The name and address of the contractor;
- (c) A description sufficient to identify the real property to be improved; and
- (d) The number or identifying symbol assigned to the building permit by the issuing authority, which number or symbol must be affixed to the application by the issuing authority.

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

Tax Folio No.

BUILDING PERMIT APPLICATION

Owner's Name

Owner's Address

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

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

City

State Zip

Contractor's Name

Contractor's Address

City

State Zip

Job Name

Job Address

City County

Legal Description

Bonding Company

Bonding Company Address

City State

Architect/Engineer's Name

Architect/Engineer's Address

Mortgage Lender's Name

Mortgage Lender's Address

Application is hereby made to obtain a permit to do the work and installations as indicated. I certify that no work or installation has commenced prior to the issuance of a permit and that all work will be performed to meet the standards of all laws regulating construction in this jurisdiction. I understand that a separate permit must be secured for ELECTRICAL WORK, PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS, TANKS, and AIR CONDITIONERS, etc.

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

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY 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 Agent)

(including contractor)

STATE OF FLORIDA
COUNTY OF

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

(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

(Signature of Contractor)

STATE OF FLORIDA
COUNTY OF

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

(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

(Certificate of Competency Holder)

Contractor's State Certification or Registration No.

Contractor's Certificate of Competency No.

APPLICATION APPROVED BY

Permit Officer

(b)1. Consistent with the requirements of paragraph (a), an authority responsible for issuing building permits under this section may accept a building permit application in an electronic format, as prescribed by the authority. Building permit applications submitted to the authority electronically must contain the following additional statement in lieu of the requirement in paragraph (a) that a signed, sworn, and notarized signature of the owner or agent and the contractor be part of the owner's affidavit:

OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of perjury, I declare that all the

information contained in this building permit application is true and correct.

2. For purposes of implementing a “United States Department of Energy SunShot Initiative: Rooftop Solar Challenge” grant and the participation of county and municipal governments, including local permitting agencies under the jurisdiction of such county and municipal governments, an owner or contractor shall not be required to personally appear and provide a notarized signature when filing a building permit application, if such building permit application will be electronically submitted to the permitting authority, the application relates to a solar project, and the owner or contractor certifies the application, consistent with this paragraph, using the permitting authority’s electronic confirmation system. For purposes of this subsection, a “solar project” means installing, uninstalling, or replacing solar panels on single-family residential property, multifamily residential property, or commercial property.

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

(d) An authority responsible for issuing building permits which accepts building permit applications in an electronic format for solar projects, as defined in subparagraph (b)2., is not liable in any civil action for any inaccurate information submitted by an owner or contractor using the authority’s electronic confirmation system.

(7) This section applies to every municipality and county in the state which now has or hereafter may have a system of issuing building permits for the construction of improvements or for the alteration or repair of improvements on or to real property located within the geographic limits of the issuing authority.

History.—ss. 1, 2, 3, ch. 67-185; s. 2, ch. 78-397; s. 1, ch. 84-26; s. 1, ch. 86-247; s. 4, ch. 87-74; s. 8, ch. 90-109; s. 3, ch. 91-102; s. 2, ch. 93-99; s. 230, ch. 94-218; s. 5, ch. 96-383; s. 4, ch. 97-219; s. 15, ch. 98-246; s. 71, ch. 99-5; s. 5, ch. 99-386; s. 5, ch. 2003-177; s. 2, ch. 2006-187; s. 9, ch. 2007-221; s. 18, ch. 2012-13.

713.14 Application of money to materials account.—

(1) Any owner, contractor, subcontractor, or sub-subcontractor, in making any payment under, or properly applicable to, any contract to one with whom she or he has a running account, or with whom she or he has more than one contract, or to whom she or he is otherwise indebted, shall designate the contract under which the payment is made or the items of account to which it is to be applied. If she or he shall fail to do so or shall make a false designation, she or he shall be liable to anyone suffering a loss in consequence for the amount of the loss.

(2) When a payment for materials is made to a subcontractor, sub-subcontractor, or materialman, the subcontractor, sub-subcontractor, or materialman shall demand of the person making the payment a designation of the account and the items of account to which the payment is to apply. In any case in which a lien is claimed for materials furnished by a subcontractor, sub-subcontractor, or materialman, it is a defense to the claim, to the extent of the payment made, to prove that a payment made by the owner to the contractor for the materials has been paid over to the subcontractor, sub-subcontractor, or materialman, and to prove also that when such payment was received by such subcontractor, sub-subcontractor, or materialman she or he did not demand a designation of the account and of the items of account to which the payment was to be applied or, receiving a designation of its application to the account for the materials, she or he failed to apply the payment in accordance therewith. This subsection is cumulative to any other defenses available to the person paying the materialman, subcontractor, or sub-subcontractor.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 7, ch. 77-353; s. 9, ch. 90-109; s. 808, ch. 97-102.

Note.—Former s. 84.141.

713.15 Repossession of materials not used.— If for any reason the completion of an improvement is

abandoned or though the improvement is completed, materials delivered are not used therefor, a person who has delivered materials for the improvement which have not been incorporated therein and for which he or she has not received payment may peaceably repossess and remove such materials or replevy the same and thereupon he or she shall have no lien on the real property or improvements and no right against any persons for the price thereof, but shall have the same rights in regard to the materials as if he or she had never parted with their possession. This right to repossess and remove or replevy the materials shall not be affected by their sale, encumbrance, attachment, or transfer from the site of improvement, except that if the materials have been so transferred, the right to repossess or replevy them shall not be effective as against a purchaser or encumbrancer thereof in good faith whose interest therein is acquired after such transfer from the site of the improvement or as against a creditor attaching after such transfer. The right of repossession and removal given by this section shall extend only to materials whose purchase price does not exceed the amount remaining due to the person repossessing but where materials have been partly paid for, the person delivering them may repossess them as allowed in this section on refunding the part of the purchase price which has been paid.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 809, ch. 97-102.

Note.—Former s. 84.151.

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

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

(2) The owner may serve in writing a demand of any lienor for a written statement under oath of his or her account showing the nature of the labor or services performed and to be performed, if any, the materials furnished, the materials to be furnished, if known, the amount paid on account to date, the amount due, and the amount to become due, if known, as of the date of the statement by the lienor. Any such demand to a lienor must be served on the lienor at the address and to the attention of any person who is designated to receive the demand in the notice to owner served by such lienor and must include a description of the property and the names of the owner, the contractor, and the lienor's customer, as set forth in the lienor's notice to owner. The failure or refusal to furnish the statement does not deprive the lienor of his or her lien if the demand is not served at the address of the lienor or directed to the attention of the person designated to receive the demand in the notice to owner. The failure or refusal to furnish the statement under oath within 30 days after the demand, or the furnishing of a false or fraudulent statement, deprives the person so failing or refusing to furnish such statement of his or her lien. If the owner serves more than one demand for statement of account on a lienor and none of the information regarding the account has changed since the lienor's last response to a demand, the failure or refusal to furnish such statement does not deprive the lienor of his or her lien. The negligent inclusion or omission of any information deprives the person of his or her lien to the extent the owner can demonstrate prejudice from such act or omission by the lienor. The failure to

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

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

REQUEST FOR SWORN STATEMENT OF ACCOUNT

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

To: (Lienor's name and address)

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

(name of contractor)

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

(signature and address of owner)

(date of request for sworn statement of account)

(4) When a contractor has furnished a payment bond pursuant to s. 713.23, he or she may, when an owner makes any payment to the contractor or directly to a lienor, serve a written demand on any other lienor for a written statement under oath of his or her account showing the nature of the labor or services performed and to be performed, if any, the materials furnished, the materials to be furnished, if known, the amount paid on account to date, the amount due, and the amount to become due, if known, as of the date of the statement by the lienor. Any such demand to a lienor must be served on the lienor at the address and to the attention of any person who is designated to receive the demand in the notice to contractor served by such lienor. The demand must include a description of the property and the names of the owner, the contractor, and the lienor's customer, as set forth in the lienor's notice to contractor. The failure or refusal to furnish the statement does not deprive the lienor of his or her rights under the bond if the demand is not served at the address of the lienor or directed to the attention of the person designated to receive the demand in the notice to contractor. The failure to furnish the statement within 30 days after the demand, or the furnishing of a false or fraudulent statement, deprives the person who fails to furnish the statement, or who furnishes the false or fraudulent statement, of his or her rights under the bond. If the contractor serves more than one demand for statement of account on a lienor and none of the information regarding the account has changed since the lienor's last response to a demand, the failure or refusal to furnish such statement does not deprive the lienor of his or her rights under the bond. The negligent inclusion or omission of any information deprives the person of his or her rights under the bond to the extent the contractor can demonstrate prejudice from such act or omission by the lienor. The failure to furnish a response to a demand for statement of account does not affect the validity of any claim on the bond being enforced in a lawsuit filed prior to the date the demand for statement of account is received by the lienor.

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

1. The amount of the direct contract under which the lien was recorded;
2. The dates and amounts paid or to be paid by or on behalf of the owner for all improvements described

in the direct contract;

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

4. If known, the actual cost of completion.

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

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

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

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

History.—s. 1, ch. 63-135; s. 10, ch. 65-456; s. 35, ch. 67-254; s. 8, ch. 77-353; s. 10, ch. 90-109; s. 6, ch. 92-286; s. 319, ch. 94-119; s. 6, ch. 96-383; s. 1767, ch. 97-102; s. 6, ch. 99-386; s. 10, ch. 2007-221; s. 8, ch. 2012-211.

Note.—Former s. 84.161.

713.165 Request for list of subcontractors and suppliers.—

(1) An owner of real property may request from the contractor a list of all subcontractors and suppliers who have any contract with the contractor to furnish any material or to perform any service for the contractor with respect to the owner's real property or improvement to the real property. The request must be in writing and delivered by registered or certified mail to the address of the contractor shown in the contract or the recorded notice of commencement.

(2) The contractor must within 10 days after receipt of the property owner's written request, furnish to the property owner or the property owner's agent a list of the subcontractors and suppliers who have a contract with the contractor as of the date the request is received by the contractor. If the contractor fails to furnish the list, the contractor thereby forfeits the contractor's right to assert a lien against the owner's property to the extent the owner is prejudiced by the contractor's failure to furnish the list or by any omissions from the list.

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

History.—s. 7, ch. 95-240.

713.17 Materials not attachable for debts of purchaser.—Whenever materials have been furnished to improve real property and payment therefor has not been made or waived, such materials shall not be subject to attachment, execution, or other legal process to enforce any debt due by the purchaser of such materials, except a debt due for the purchase price thereof, so long as in good faith the same are about to be applied to improve the real property; but if the owner has made payment for materials furnished and the materialman has not received payment therefor, such materials shall not be subject to attachment, execution, or other legal process to enforce the debt due for the purchase price.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254.

Note.—Former s. 84.171.

713.18 Manner of serving notices and other instruments.—

(1) Service of notices, claims of lien, affidavits, assignments, and other instruments permitted or

required under this part, or copies thereof when so permitted or required, unless otherwise specifically provided in this part, must be made by one of the following methods:

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

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

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

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

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

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

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

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

(3)(a) Service of an instrument pursuant to this section is effective on the date of mailing the instrument if it:

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

2. Is returned as being “refused,” “moved, not forwardable,” or “unclaimed,” or is otherwise not delivered or deliverable through no fault of the person serving the item.

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

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

History.—s. 1, ch. 63-135; s. 11, ch. 65-456; s. 35, ch. 67-254; s. 10, ch. 87-405; s. 11, ch. 90-109; s. 7, ch. 96-383; s. 1768, ch. 97-102; s. 5, ch. 98-135; s. 7, ch. 99-386; ss. 7, 12, ch. 2001-211; s. 20, ch. 2003-2; s. 3, ch. 2006-187; s. 11, ch. 2007-221; s. 9, ch. 2012-211.

Note.—Former s. 84.181.

713.19 Assignment of lien.—A lien or prospective lien, except that of a laborer, may be assigned by the lienor at any time before its discharge. The assignment may be recorded in the clerk’s office.

History.—s. 1, ch. 63-135; s. 12, ch. 65-456; s. 35, ch. 67-254.

Note.—Former s. 84.191.

713.20 Waiver or release of liens.—

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

(2) A right to claim a lien may not be waived in advance. A lien right may be waived only to the extent of labor, services, or materials furnished. Any waiver of a right to claim a lien that is made in advance is unenforceable.

(3) Any person may at any time waive, release, or satisfy any part of his or her lien under this part, either as to the amount due for labor, services, or materials furnished or for labor, services, or materials furnished through a certain date subject to exceptions specified at the time of release, or as to any part or parcel of the real property.

(4) When a lienor is required to execute a waiver or release of lien in exchange for, or to induce payment of, a progress payment, the waiver or release may be in substantially the following form:

**WAIVER AND RELEASE OF LIEN
UPON PROGRESS PAYMENT**

The undersigned lienor, in consideration of the sum of \$, hereby waives and releases its lien and right to claim a lien for labor, services, or materials furnished through (insert date) to (insert the name of your customer) on the job of (insert the name of the owner) to the following property:

(description of property)

This waiver and release does not cover any retention or labor, services, or materials furnished after the date specified.

DATED on , (year) . (Lienor)

By:

(5) When a lienor is required to execute a waiver or release of lien in exchange for, or to induce payment of, the final payment, the waiver and release may be in substantially the following form:

**WAIVER AND RELEASE OF LIEN
UPON FINAL PAYMENT**

The undersigned lienor, in consideration of the final payment in the amount of \$, hereby waives and releases its lien and right to claim a lien for labor, services, or materials furnished to (insert the name of your customer) on the job of (insert the name of the owner) to the following described property:

(description of property)

DATED on , (year) . (Lienor)

By:

(6) A person may not require a lienor to furnish a lien waiver or release of lien that is different from the forms in subsection (4) or subsection (5).

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

(8) A lien waiver or lien release that is not substantially similar to the forms in subsections (4) and (5) is enforceable in accordance with the terms of the lien waiver or lien release.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 5, ch. 88-397; s. 8, ch. 96-383; s. 1769, ch. 97-102; s. 5, ch. 97-219; s. 30, ch. 99-6.

Note.—Former s. 84.202.

713.21 Discharge of lien.—A lien properly perfected under ¹this chapter may be discharged by any of the following methods:

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

(2) By the satisfaction of the lienor, duly acknowledged and recorded in the clerk’s office. Any person who executes a claim of lien shall have authority to execute a satisfaction in the absence of actual notice of lack of authority to any person relying on the same.

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

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

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

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 810, ch. 97-102.

¹**Note.**—The language “this chapter” predates inclusion of this material in chapter 713 and, when initially included in this section’s text, referred to former chapter 84, Mechanics Liens. The Florida Uniform Federal Lien Registration Act was enacted without reference to statutory placement by ch. 92-25, Laws of Florida, and was added as part IV of chapter 713 by the Division of Statutory Revision.

Note.—Former s. 84.211.

713.22 Duration of lien.—

(1) A lien provided by this part does not continue for a longer period than 1 year after the claim of lien has been recorded or 1 year after the recording of an amended claim of lien that shows a later date of final furnishing of labor, services, or materials, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. A lien that has been continued beyond the 1-year period by the commencement of an action is not enforceable against creditors or subsequent purchasers for a valuable consideration and without notice, unless a notice of lis pendens is recorded.

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

NOTICE OF CONTEST OF LIEN

To: (Name and address of lienor)

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).

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.

History.—s. 1, ch. 63-135; s. 13, ch. 65-456; s. 35, ch. 67-254; s. 9, ch. 77-353; s. 811, ch. 97-102; s. 31, ch. 99-6; s. 12, ch. 2007-221; s. 10, ch. 2012-211.

Note.—Former s. 84.221.

713.23 Payment bond.—

(1)(a) The payment bond required to exempt an owner under this part shall be furnished by the contractor in at least the amount of the original contract price before commencing the construction of the improvement under the direct contract, and a copy of the bond shall be attached to the notice of commencement when the notice of commencement is recorded. The bond shall be executed as surety by a surety insurer authorized to do business in this state and shall be conditioned that the contractor shall promptly make payments for labor, services, and material to all lienors under the contractor’s direct contract. Any form of bond given by a contractor conditioned to pay for labor, services, and material used to improve real property shall be deemed to include the condition of this subsection.

(b) The owner, contractor, or surety shall furnish a true copy of the bond at the cost of reproduction to any lienor demanding it. Any person who fails or refuses to furnish the copy without justifiable cause shall be liable to the lienor demanding the copy for any damages caused by the refusal or failure.

(c) Before beginning or within 45 days after beginning to furnish labor, materials, or supplies, a lienor who is not in privity with the contractor, except a laborer, shall serve the contractor with notice in writing that the lienor will look to the contractor’s bond for protection on the work. If a notice of commencement with the attached bond is not recorded before commencement of construction, the lienor not in privity with the contractor may, in the alternative, elect to serve the notice to the contractor up to 45 days after the date the lienor is served with a copy of the bond. A notice to owner pursuant to s. 713.06 that has been timely served on the contractor satisfies the requirements of this paragraph. However, the limitation period for commencement of an action on the payment bond as established in paragraph (e) may not be expanded. The notice may be in substantially the following form and may be combined with a notice to owner given under s. 713.06 and, if so, may be 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:

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

This notice is to inform you that the undersigned intends to look to the contractor’s bond to secure payment for the furnishing of materials or services for the improvement of the real property.

(name of lienor)

(signature of lienor or lienor’s representative)

(date)

(lienor's address)

(d) In addition, a lienor is required, as a condition precedent to recovery under the bond, to serve a written notice of nonpayment to the contractor and the surety not later than 90 days after the final furnishing of labor, services, or materials by the lienor. A written notice satisfies this condition precedent with respect to the payment described in the notice of nonpayment, including unpaid finance charges due under the lienor's contract, and with respect to any other payments which become due to the lienor after the date of the notice of nonpayment. The time period for serving a written notice of nonpayment shall be measured from the last day of furnishing labor, services, or materials by the lienor and shall not be measured by other standards, such as the issuance of a certificate of occupancy or the issuance of a certificate of substantial completion. The failure of a lienor to receive retainage sums not in excess of 10 percent of the value of labor, services, or materials furnished by the lienor is not considered a nonpayment requiring the service of the notice provided under this paragraph. If the payment bond is not recorded before commencement of construction, the time period for the lienor to serve a notice of nonpayment may at the option of the lienor be calculated from the date specified in this section or the date the lienor is served a copy of the bond. However, the limitation period for commencement of an action on the payment bond as established in paragraph (e) may not be expanded. The notice under this paragraph may be in substantially the following form:

NOTICE OF NONPAYMENT

To (name of contractor and address)

(name of surety and address)

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

(signature and address of lienor)

(e) An action for the labor or materials or supplies may not be instituted or prosecuted against the contractor or surety unless both notices have been given, if required by this section. An action may not be instituted or prosecuted against the contractor or against the surety on the bond under this section after 1 year from the performance of the labor or completion of delivery of the materials and supplies. The time period for bringing an action against the contractor or surety on the bond shall be measured from the last day of furnishing labor, services, or materials by the lienor. The time period may not be measured by other standards, such as the issuance of a certificate of occupancy or the issuance of a certificate of substantial completion. A contractor or the contractor's attorney may elect to shorten the time within which an action to enforce any claim against a payment bond provided under this section or s. 713.245 must be commenced at any time after a notice of nonpayment, if required, has been served for the claim by recording in the clerk's office a notice in substantially the following form:

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 shall serve 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.

(f) A 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 the classes of persons who are protected by the payment bond, which restricts the venue of any proceeding relating to such payment bond, which limits or expands the effective duration of the payment bond, or which adds conditions precedent to the enforcement of a claim against a payment bond beyond those provided in this part is unenforceable. The surety is not entitled to the defense of pro tanto discharge as against any lienor because of changes or modifications in the contract to which the surety is not a party; but the liability of the surety may not be increased beyond the penal sum of the bond. A lienor may not waive in advance his or her right to bring an action under the bond against the surety.

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

NOTICE OF BOND

To (Name and Address of Lienor)

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

Signed: (Name of person recording notice)

The notice shall be verified. The person recording the notice of bond shall serve a copy of the notice with a copy of the bond to the lienor at the address shown in the claim of lien, or the most recent amendment to it; shall certify to the service on the face of the notice; and shall record the notice.

(3) A payment bond in substantially the following form shall be sufficient:

PAYMENT BOND

BY THIS BOND We, , as Principal, and , a corporation, as Surety, are bound to , herein called Owner, in the sum of \$ for the payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Promptly makes payments to all lienors supplying labor, material, and supplies used directly or indirectly by Principal in the prosecution of the work provided in the contract dated , , between Principal and Owner for construction of , the contract being made a part of this bond by reference; and

2. Pays Owner all loss, damage, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of default by Principal under paragraph 1. of this bond;

then this bond is void; otherwise, it remains in full force.

Any changes in or under the contract documents and compliance or noncompliance with formalities connected with the contract or with the changes do not affect Surety's obligation under this bond.

DATED on , .

(Principal) (SEAL)

(Surety's name)

By

As Attorney in Fact

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

(5) A waiver and release of lien pursuant to s. 713.20 given by a lienor shall constitute a waiver and release in a like amount of the lienor's right to make a claim against a payment bond under this section.

History.—s. 1, ch. 63-135; s. 14, ch. 65-456; s. 35, ch. 67-254; s. 10, ch. 77-353; s. 8, ch. 80-97; s. 5, ch. 87-74; s. 6, ch. 88-397; s. 12, ch. 90-109; s. 812, ch. 97-102; s. 6, ch. 98-135; s. 32, ch. 99-6; s. 8, ch. 99-386; s. 8, ch. 2001-211; s. 10, ch. 2005-227; s. 11, ch. 2012-211.

Note.—Former s. 84.231.

713.235 Waivers of right to claim against payment bond; forms.—

(1) When a person is required to execute a waiver of his or her right to make a claim against a payment bond provided pursuant to s. 713.23 or s. 713.245, in exchange for, or to induce payment of, a progress payment, the waiver may be in substantially the following form:

WAIVER OF RIGHT TO CLAIM
AGAINST THE PAYMENT BOND
(PROGRESS PAYMENT)

The undersigned, in consideration of the sum of \$ hereby waives its right to claim against the payment bond for labor, services, or materials furnished through (insert date), to (insert the name of your customer) on the job of (insert the name of the owner), for improvements to the following described project:

(description of project)

This waiver does not cover any retention or any labor, services, or materials furnished after the date specified.

DATED on

(Lienor)

By:

(2) When a person is required to execute a waiver of his or her right to make a claim against a payment bond provided pursuant to s. 713.23 or s. 713.245, in exchange for, or to induce payment of, the final payment, the waiver may be in substantially the following form:

WAIVER OF RIGHT TO CLAIM
AGAINST THE PAYMENT BOND
(FINAL PAYMENT)

The undersigned, in consideration of the final payment in the amount of \$, hereby waives its right to claim against the payment bond for labor, services, or materials furnished to (insert the name of your customer) on the job of (insert the name of the owner), for improvements to the following described project:

(description of project)

DATED on

(Lienor)

By:

(3) A person may not require a claimant to furnish a waiver that is different from the forms in subsections (1) and (2).

(4) A person who executes a waiver in exchange for a check may condition the waiver on payment of the check.

(5) A waiver that is not substantially similar to the forms in this section is enforceable in accordance with its terms.

History.—s. 7, ch. 98-135.

713.24 Transfer of liens to security.—

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

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

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

either to be in an amount equal to the amount demanded in such claim of lien, plus interest thereon at the legal rate for 3 years, plus \$1,000 or 25 percent of the amount demanded in the claim of lien, whichever is greater, to apply on any attorney's fees and court costs that may be taxed in any proceeding to enforce said lien. Such deposit or bond shall be conditioned to pay any judgment or decree which may be rendered for the satisfaction of the lien for which such claim of lien was recorded. Upon making such deposit or filing such bond, the clerk shall make and record a certificate showing the transfer of the lien from the real property to the security and shall mail a copy thereof by registered or certified mail to the lienor named in the claim of lien so transferred, at the address stated therein. Upon filing the certificate of transfer, the real property shall thereupon be released from the lien claimed, and such lien shall be transferred to said security. In the absence of allegations of privity between the lienor and the owner, and subject to any order of the court increasing the amount required for the lien transfer deposit or bond, no other judgment or decree to pay money may be entered by the court against the owner. The clerk shall be entitled to a service charge for making and serving the certificate, in the amount of up to \$20. If the transaction involves the transfer of multiple liens, an additional charge of up to \$10 for each additional lien shall be charged. For recording the certificate and approving the bond, the clerk shall receive her or his usual statutory service charges as prescribed in s. 28.24. Any number of liens may be transferred to one such security.

(2) Any excess of the security over the aggregate amount of any judgments or decrees rendered plus costs actually taxed shall be repaid to the party filing the same or her or his successor in interest. Any deposit of

money shall be considered as paid into court and shall be subject to the provisions of law relative to payments of money into court and the disposition of same.

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

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

History.—s. 1, ch. 63-135; s. 15, ch. 65-456; s. 35, ch. 67-254; s. 6, ch. 77-354; s. 6, ch. 87-74; s. 813, ch. 97-102; s. 8, ch. 98-135; s. 111, ch. 2003-402; s. 73, ch. 2004-265; s. 11, ch. 2005-227; s. 38, ch. 2008-111.

Note.—Former s. 84.241.

713.245 Conditional payment bond.—

(1) Notwithstanding any provisions of ss. 713.23 and 713.24 to the contrary, if the contractor's written contractual obligation to pay lienors is expressly conditioned upon and limited to the payments made by the owner to the contractor, the duty of the surety to pay lienors will be coextensive with the duty of the contractor to pay, if the following provisions are complied with:

(a) The bond is listed in the notice of commencement for the project as a conditional payment bond and is recorded together with the notice of commencement for the project prior to commencement of the project.

(b) The words "conditional payment bond" are contained in the title of the bond at the top of the front page.

(c) The bond contains on the front page, in at least 10-point type, the statement: THIS BOND ONLY COVERS CLAIMS OF SUBCONTRACTORS, SUB-SUBCONTRACTORS, SUPPLIERS, AND LABORERS TO THE EXTENT THE CONTRACTOR HAS BEEN PAID FOR THE LABOR, SERVICES, OR MATERIALS PROVIDED BY SUCH PERSONS. THIS BOND DOES NOT PRECLUDE YOU FROM SERVING A NOTICE TO OWNER OR FILING A CLAIM OF LIEN ON THIS PROJECT.

(2) Except as specified in this section, all bonds issued under this section must conform to the requirements of s. 713.23(1)(a), (b), (f), and (4). No action shall be instituted or prosecuted against the contractor or the surety after 1 year from the date the lien is transferred to the bond.

(3) The owner's property is not exempt from liens filed under this part. All lienors must comply with the provisions of this part to preserve and perfect those lien rights.

(4) Within 90 days after a claim of lien is recorded for labor, services, or materials for which the contractor has been paid, the owner or the contractor may record a notice of bond as specified in s. 713.23(2), together with a copy of the bond and a sworn statement in substantially the following form:

TO THE CONTRACTOR

TO: Lienor (name and address from claim of lien)

Contractor (name and address)

Surety (name and address)

Under penalties of perjury, the undersigned certifies that the bond recorded with this certificate conforms with s. 713.245, F.S., that the bond is in full force and effect, and that the contractor has been paid \$ for the labor, services, and materials described in the Claim of Lien filed by dated , (year), and recorded , (year), in Official Records Book at Page of the Public Records of County, Florida.

Dated this day of , (year).

(Owner)
(Address)

STATE OF FLORIDA
COUNTY OF

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

(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

(Contractor)
(Address)

STATE OF FLORIDA
COUNTY OF

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

(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

Any notice of bond recorded more than 90 days after the recording of the claim of lien shall have no force or effect as to that lien unless the owner, the contractor and the surety all sign the notice of bond.

(5) The clerk shall serve a copy of the notice, the bond, and the certificate on the contractor, the surety, and the lienor; certify to the service on the face of the notice, the bond, and the certificate; record the notice, the bond, and the certificate; and collect a fee in accordance with s. 713.23(2).

(6) The contractor may join in a certificate of payment to the contractor at any time by recording a sworn statement substantially in the following form:

JOINDER IN CERTIFICATE OF PAYMENT

TO: Owner (name and address from certificate of payment)

Lienor (name and address from claim of lien)

Surety (name and address)

The undersigned joins in the Certificate of Payment to the Contractor recorded on , (year), in Official Records Book at Page of the Public Records of County, Florida, and certifies that the facts stated in the Certificate of Payment to the Contractor are true and correct.

Dated this day of , (year).

(Name)
(Address)

STATE OF FLORIDA
COUNTY OF

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

(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

(7) The clerk shall serve the joinder in certificate of payment on the owner, the surety, and the lienor; certify to the service on the face of the joinder; record the joinder; and collect a fee in accordance with s. 713.23(2).

(8) If the contractor disputes the certificate of payment to the contractor, the contractor must record, not later than 15 days after the date the clerk certifies service of the certificate, a sworn statement in substantially the following form:

NOTICE OF CONTEST OF PAYMENT

TO: Owner (name and address from certificate of payment)

Lienor (name and address from claim of lien)

Surety (name and address)

Under penalties of perjury, the undersigned certifies that the contractor has not been paid or has only been paid \$ for the labor, services, and materials described in the Certificate of Payment to the Contractor recorded in Official Records Book at Page of the Public Records of County, Florida.

Dated this day of , (year).

(Name)
(Address)

STATE OF FLORIDA

COUNTY OF

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

(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

(9) The clerk shall serve a copy of the notice of contest of payment on the owner, the lienor, and the surety; certify service on the face of the notice; record the notice; and collect a fee in accordance with s. 713.23(2).

(10) If the contractor has signed the certificate of payment to the contractor or the joinder in the certificate or the contractor fails to record a notice of contest of payment within 15 days after the date the clerk certifies service of a certificate of payment to the contractor signed by the owner, the lien shall transfer to the bond to the extent of payment specified in the certificate of payment to the contractor. To the extent the lien exceeds the amount specified in the certificate of payment to the contractor, such amount shall remain as a lien on the owner's property. The surety may assert all claims or defenses of the owner regarding the validity of the claim of lien or of the contractor regarding the amount due the lienor.

(11) If the notice of contest of payment specifies that the contractor has been paid a portion of the amount due the lienor, the lien shall transfer to the bond to the extent of the payment specified in the notice of contest of payment. To the extent the lien exceeds the amount specified in the notice of contest of payment, such amount shall remain as a lien on the owner's property. The surety may assert all claims or defenses of the owner regarding the validity of the claim of lien or of the contractor regarding the amount due the lienor.

(12) If there are any material misstatements of fact made by the owner or the contractor in any certificate of payment to the contractor, or by the contractor in any notice of contest of payment, the person making the material misstatement is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The penalties apply individually and to the business entity if the false certificate is signed in a representative capacity.

(13) The certificate of payment to the contractor and the notice of contest of payment must be signed by the owner or the contractor individually if she or he is a natural person, by the general partner if the owner or the contractor is a limited partnership, by a partner if the owner or the contractor is a general partnership, by the president or a vice president if the owner or the contractor is a corporation, or by any authorized agent if the owner or the contractor is any other type of business entity.

(14) In an action to enforce a lien, the owner shall not be considered the prevailing party solely because the lien is transferred to a conditional payment bond after the action to enforce the lien is brought.

History.—s. 13, ch. 90-109; s. 9, ch. 92-286; s. 3, ch. 93-99; s. 58, ch. 95-211; s. 814, ch. 97-102; s. 16, ch. 98-246; s. 9, ch. 2001-211.

713.25 Applicability of ch. 65-456.—This act shall take effect on July 1, 1965, but shall not apply to any act required to be done within a time period which is running on that date nor shall apply to existing projects where its operation would impair vested rights.

History.—s. 17, ch. 65-456; s. 35, ch. 67-254.

Note.—Former s. 84.242.

713.26 Redemption and sale.—The right of redemption upon all sales under this part shall exist in

favor of the person whose interest is sold and may be exercised in the same manner as is or may be provided for redemption of real property from sales under mortgages.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 4, ch. 71-5.

Note.—Former s. 84.251.

713.27 Interplead.—An owner or other person holding funds for disbursement on an improvement shall have the right to interplead such lienor and any other person having or claiming to have an interest in the real property improved or a contract relating to the improvement thereof, whenever there is a dispute between lienors as to the amounts due or to become due them. If the court decrees the interpleader, it may transfer all claims to the funds held by the plaintiff. In such case the court shall require said fund to be deposited in registry of court and, effective upon such deposit, shall decree the real property to be free of all liens and claims of lien of the parties to the suit.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254.

Note.—Former s. 84.271.

713.28 Judgments in case of failure to establish liens; personal and deficiency judgments or decrees.—

(1) If a lienor shall fail, for any reason, to establish a lien for the full amount found to be due him or her in an action to enforce the same under the provisions of this part, he or she may, in addition to the lien decreed in his or her favor, recover a judgment or decree in such action against any party liable therefor for such sums in excess of the lien as are due him or her or which the lienor might recover in an action on a contract against any party to the action from whom such sums are due him or her.

(2) In any action heretofore or hereafter brought a court may, either before or after the final adjudication, award a summary money judgment or decree in favor of any party. This shall not preclude the rendition of other judgments or decrees in the action.

(3) If, upon the sale of the real property under any judgment or decree there is a deficiency of proceeds to pay the amount of such judgment or decree, the judgment or decree may be enforced for the deficiency against any person liable therefor in the same manner and under the same conditions as deficiency decrees in mortgage foreclosures. Any payment made on account of any judgment or decree in favor of a party shall be credited on any other judgment or decree rendered in favor of that party in the same action.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 815, ch. 97-102.

Note.—Former s. 84.281.

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

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 11, ch. 77-353; s. 14, ch. 90-109; s. 7, ch. 92-286; s. 816, ch. 97-102.

Note.—Former s. 84.291.

713.30 Other actions not barred.—This part shall be cumulative to other existing remedies and nothing contained in this part shall be construed to prevent any lienor or assignee under any contract from maintaining an action thereon at law in like manner as if he or she had no lien for the security of his or her debt, and the bringing of such action shall not prejudice his or her rights under this part, except as herein otherwise expressly provided.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 817, ch. 97-102.

Note.—Former s. 84.301.

713.31 Remedies in case of fraud or collusion.—

(1) When the owner or any lienor shall, by fraud or collusion, deprive or attempt to deprive any lienor of benefits or rights to which such lienor is entitled under this part by establishing or manipulating the contract price or by giving false affidavits, releases, invoices, worthless checks, statements, or written instruments permitted or required under this part relating to the improvement of real property hereunder to the detriment of any such lienor, the circuit court in chancery shall have jurisdiction, upon a complaint filed by such lienor, to issue temporary and permanent injunctions, order accountings, grant discovery, utilize all remedies available under creditors' bills and proceedings supplementary to execution, marshal assets, and exercise any other appropriate legal or equitable remedies or procedures without regard to the adequacy of a remedy at law or whether or not irreparable damage has or will be done.

(2)(a) Any lien asserted under this part in which the lienor has willfully exaggerated the amount for which such lien is claimed or in which the lienor has willfully included a claim for work not performed upon or materials not furnished for the property upon which he or she seeks to impress such lien or in which the lienor has compiled his or her claim with such willful and gross negligence as to amount to a willful exaggeration shall be deemed a fraudulent lien.

(b) It is a complete defense to any action to enforce a lien under this part, or against any lien in any action in which the validity of the lien is an issue, that the lien is a fraudulent lien; and the court so finding is empowered to and shall declare the lien unenforceable, and the lienor thereupon forfeits his or her right to any lien on the property upon which he or she sought to impress such fraudulent lien. However, a minor mistake or error in a claim of lien, or a good faith dispute as to the amount due does not constitute a willful exaggeration that operates to defeat an otherwise valid lien.

(c) An owner against whose interest in real property a fraudulent lien is filed, or any contractor, subcontractor, or sub-subcontractor who suffers damages as a result of the filing of the fraudulent lien, shall have a right of action for damages occasioned thereby. The action may be instituted independently of any other action, or in connection with a summons to show cause under s. 713.21, or as a counterclaim or cross-claim to any action to enforce or to determine the validity of the lien. The prevailing party in an action under this paragraph may recover reasonable attorney's fees and costs. If the lienor who files a fraudulent lien is not the prevailing party, the lienor shall be liable to the owner or the defrauded party who prevails in an action under this subsection in damages, which shall include court costs, clerk's fees, a reasonable attorney's fee and costs for services in securing the discharge of the lien, the amount of any premium for a bond given to obtain the discharge of the lien, interest on any money deposited for the purpose of discharging the lien, and punitive damages in an amount not exceeding the difference between the amount claimed by the lienor to be due or to become due and the amount actually due or to become due.

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

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 12, ch. 77-353; s. 260, ch. 79-400; s. 9, ch. 80-97; s. 15, ch. 90-109; s. 8, ch. 95-240; s. 818, ch. 97-102; s. 6, ch. 2003-177; s. 13, ch. 2007-221.

Note.—Former s. 84.311.

713.32 Insurance proceeds liable for demands.—The proceeds of any insurance that by the terms of

the policy contract are payable to the owner of improved real property or a lienor and actually received or to be received by him or her because of the damage, destruction, or removal by fire or other casualty of an improvement on which lienors have furnished labor or services or materials shall, after the owner or lienor, as the case may be, has been reimbursed therefrom for any premiums paid by him or her, be liable to liens or demands for payment provided by this part to the same extent and in the same manner, order of priority, and conditions as the real property or payments under a direct contract would have been, if the improvement had not been so damaged, destroyed, or removed. The insurer may pay the proceeds of the policy of insurance to the insured named in the policy and thereupon any liability of the insurer under this part shall cease. The named insured who receives any proceeds of the policy shall be deemed a trustee of the proceeds, and the proceeds shall be deemed trust funds for the purposes designated by this section for a period of 1 year from the date of receipt of the proceeds. This section shall not apply to that part of the proceeds of any policy of insurance payable to a person, including a mortgagee, who holds a lien perfected before the recording of the notice of commencement or recommencement.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 13, ch. 77-353; s. 819, ch. 97-102; s. 72, ch. 99-3.

Note.—Former s. 84.321.

713.33 Disbursing agent and others may rely on owner's notices.—When the proceeds of a construction or improvement loan or any portion thereof are being disbursed by a person other than the owner, any affidavit, notice or other instrument which is permitted or required under this part to be furnished to the owner may be relied upon by such other person in making such disbursements to the same extent as the owner is entitled to rely upon the same.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254.

Note.—Former s. 84.331.

713.345 Moneys received for real property improvements; penalty for misapplication.—

(1)(a) A person, firm, or corporation, or an agent, officer, or employee thereof, who receives any payment on account of improving real property must apply such portion of any payment to the payment of all amounts then due and owing for services and labor which were performed on, or materials which were furnished for, such improvement prior to receipt of the payment. This paragraph does not prevent any person from withholding any payment, or any part of a payment, in accordance with the terms of a contract for services, labor, or materials, or pursuant to a bona fide dispute regarding the amount due, if any, for such services, labor, or materials.

(b) Any person who knowingly and intentionally fails to comply with paragraph (a) is guilty of misapplication of construction funds, punishable as follows:

1. If the amount of payments misapplied has an aggregate value of \$100,000 or more, the violator is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the amount of payments misapplied has an aggregate value of \$1,000 or more but less than \$100,000, the violator is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. If the amount of payments misapplied has an aggregate value of less than \$1,000, the violator is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A permissive inference that a person knowingly and intentionally misapplied construction funds in violation of this subsection is created when a valid lien has been recorded against the property of an owner for labor, services, or materials; the person who ordered the labor, services, or materials has received sufficient funds to pay for such labor, services, or materials; and the person has failed, for a period of at least 45 days from receipt of the funds, to remit sufficient funds to pay for such labor, services, or materials, except for funds withheld pursuant to paragraph (a).

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

(2) This section does not apply to mortgage bankers or their agents, servants, or employees for their acts in the usual course of the business of lending or disbursing mortgage funds.

History.—s. 1, ch. 87-74; s. 7, ch. 88-397; s. 17, ch. 90-109; s. 7, ch. 2003-177; s. 12, ch. 2005-227.

713.346 Payment on construction contracts.—

(1) Any person who receives a payment for constructing or altering permanent improvements to real property shall pay, in accordance with the contract terms, the undisputed contract obligations for labor, services, or materials provided on account of such improvements.

(2) The failure to pay any undisputed obligations for such labor, services, or materials within 30 days after the date the labor, services, or materials were furnished and payment for such labor, services, or materials became due, or within 30 days after the date payment for such labor, services, or materials is received, whichever last occurs, shall entitle any person providing such labor, services, or materials to the procedures specified in subsection (3) and the remedies provided in subsection (4).

(3) Any person providing labor, services, or materials for improvements to real property may file a verified complaint alleging:

- (a) The existence of a contract, as defined in s. 713.01, to improve real property.
- (b) A description of the labor, services, or materials provided and alleging that the labor, services, or materials were provided in accordance with the contract.
- (c) The amount of the contract price.
- (d) The amount, if any, paid pursuant to the contract.
- (e) The amount that remains unpaid pursuant to the contract, and the amount thereof that is undisputed.
- (f) That the undisputed amount has remained due and payable pursuant to the contract for more than 30 days after the date the labor or services were accepted or the materials were received.
- (g) That the person against whom the complaint was filed has received payment on account of the labor, services, or materials described in the complaint more than 30 days prior to the date the complaint was filed.

(4) After service of the complaint, the court shall conduct an evidentiary hearing on the complaint, upon not less than 15 days' written notice. The person providing labor, services, or materials is entitled to the following remedies to the extent of the undisputed amount due for labor or services performed or materials supplied, and upon proof of each allegation in the complaint:

- (a) An accounting of the use of any such payment from the person who received such payment.
- (b) A temporary injunction against the person who received the payment, subject to the bond requirements specified in the Florida Rules of Civil Procedure.
- (c) Prejudgment attachment against the person who received the payment, in accordance with each of the requirements of chapter 76.
- (d) Such other legal or equitable remedies as may be appropriate in accordance with the requirements of the law.

(5) The remedies specified in subsection (4) must be granted without regard to any other remedy at law and without regard to whether or not irreparable damage has occurred or will occur.

(6) The remedies specified in subsection (4) do not apply:

- (a) To the extent of a bona fide dispute regarding any portion of the contract price.
 - (b) In the event the plaintiff has committed a material breach of the contract which would relieve the defendant from the obligations under the contract.
- (7) The prevailing party in any proceeding under this section is entitled to recover costs, including a reasonable attorney's fee, at trial and on appeal.

History.—s. 8, ch. 88-397; s. 18, ch. 90-109.

713.3471 Lender responsibilities with construction loans.—

(1) Prior to a lender making any loan disbursement on any construction loan secured by residential real property directly to the owner, which, for purposes of this subsection, means only a natural person, into the owner's account or accounts, or jointly to the owner and any other party, the lender shall mail, deliver by electronic mail or other electronic format or facsimile, or personally deliver the following written notice to the borrowers in bold type larger than any other type on the page:

WARNING!

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

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

(2)(a) Within 5 business days after a lender makes a final determination, prior to the distribution of all funds available under a construction loan, that the lender will cease further advances pursuant to the loan, the lender shall serve written notice of that decision on the contractor and on any other lienor who has given the lender notice. The lender shall not be liable to the contractor based upon the decision of the lender to cease further advances if the lender gives the contractor notice of such decision in accordance with this subsection and the decision is otherwise permitted under the loan documents.

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

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

(d) For purposes of serving notice on the contractor under this subsection, the lender may rely on the name and address of the contractor listed in the notice of commencement or, if no notice of commencement is recorded, on the name and address of the contractor listed in the uniform building permit application. For

purposes of serving notice on any other lienor under this subsection, the lender may rely upon the name and address of the lienor listed in the notice to owner.

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

(3)(a) If the lender and the borrower have designated a portion of the construction loan proceeds, the borrower may not authorize the lender to disburse the funds so designated for any other purpose until the owner serves the contractor and any other lienor who has given the owner a notice to owner with written notice of that decision, including the amount of such loan proceeds to be disbursed. For the purposes of this subsection, the term “designated construction loan proceeds” means that portion of the loan allocated to actual construction costs of the facility and shall not include allocated loan proceeds for tenant improvements where the contractor has no contractual obligation or work order to proceed with such improvements. The lender shall not be liable to the contractor based upon the reallocation of the loan proceeds or the disbursement of the loan proceeds if the notice is timely given in accordance with this subsection and the decision is otherwise permitted under the loan documents.

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

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

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

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

(f) Disbursement of loan proceeds contrary to this subsection renders the lender liable to the contractor to the extent of any such disbursements or to the extent of the actual value of the materials and direct labor costs plus 15 percent for overhead, profit, and all other costs, whichever is less. The lender is not liable to the contractor for consequential or punitive damages for disbursing loan proceeds in violation of this subsection. The contractor shall have a separate cause of action against the lender for damages sustained as the result of the disbursement of loan proceeds in violation of this subsection. Such separate cause of action may not be used to hinder or delay any foreclosure action filed by the lender, may not be the basis of any claim for equitable subordination of the mortgage lien, and may not be asserted as an offset or a defense in the foreclosure case.

(g) For purposes of serving notice on the contractor under this subsection, the lender may rely upon the name and address of the contractor listed in the notice of commencement or, if no notice of commencement is recorded, the name and address of the contractor listed in the uniform building permit application. For purposes of serving notice on any other lienor under this subsection, the lender may rely upon the name and address of the lienor listed in the notice to owner.

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

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

History.—s. 8, ch. 92-286; s. 820, ch. 97-102; s. 8, ch. 2003-177; s. 13, ch. 2005-227.

713.35 Making or furnishing false statement.—Any person, firm, or corporation who knowingly and intentionally makes or furnishes to another person, firm, or corporation an affidavit, a waiver or release of

lien, or other document, whether or not under oath, containing false information about the payment status of subcontractors, sub-subcontractors, or suppliers in connection with the improvement of real property in this state, knowing that the one to whom it was furnished might rely on it, and the one to whom it was furnished will part with draw payments or final payment relying on the truth of such statement as an inducement to do so commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. A state attorney or the statewide prosecutor, upon the filing of an indictment or information against a contractor, subcontractor, or sub-subcontractor which charges such person with a violation of this section, shall forward a copy of the indictment or information to the Department of Business and Professional Regulation. The Department of Business and Professional Regulation shall promptly open an investigation into the matter and, if probable cause is found, shall furnish a copy of any investigative report to the state attorney or statewide prosecutor who furnished a copy of the indictment or information and to the owner of the property which is the subject of the investigation.

History.—s. 1, ch. 63-135; s. 35, ch. 67-254; s. 9, ch. 95-240; s. 9, ch. 2003-177; s. 4, ch. 2006-187.

Note.—Former s. 84.351.

713.37 Rule of construction.—This part shall not be subject to a rule of liberal construction in favor of any person to whom it applies.

History.—s. 15, ch. 77-353.

PART II MISCELLANEOUS LIENS

- 713.50 Liens upon property.
- 713.56 Liens for labor on and with machines, etc.
- 713.57 Liens for labor on logs and timber.
- 713.58 Liens for labor or services on personal property.
- 713.585 Enforcement of lien by sale of motor vehicle.
- 713.59 Liens for labor in raising crops.
- 713.595 Liens for labor or services in ginning cotton.
- 713.596 Molder's liens.
- 713.60 Liens for labor on or for vessels.
- 713.61 Liens for manufacturing and repairing articles.
- 713.62 Liens for furnishing articles to be manufactured.
- 713.63 Liens for furnishing locomotives, machinery, etc.
- 713.64 Liens for furnishing material for vessels.
- 713.65 Liens for care and maintenance of animals.
- 713.655 Liens for professional services of veterinarians.
- 713.66 Liens for feed, etc., for racehorses, polo ponies and race dogs.
- 713.665 Liens for furnishing pest control.
- 713.67 Liens for board, lodging, etc., at hotels, etc.
- 713.68 Liens for hotels, apartment houses, roominghouses, boardinghouses, etc.
- 713.69 Unlawful to remove property upon which lien has accrued.
- 713.691 Landlord's lien for rent; exemptions.
- 713.70 Lien for service of stallions and other animals.
- 713.71 Liens for loans and advances.
- 713.73 Priority of foregoing liens.
- 713.74 Acquisition of liens by persons in privity with the owner.

- 713.75 Acquisition of liens by persons not in privity with the owner.
- 713.76 Release of lien by filing bond.
- 713.77 Liens of owners, operators, or keepers of mobile home or recreational vehicle parks; ejection of occupants.
- 713.78 Liens for recovering, towing, or storing vehicles and vessels.
- 713.785 Liens for recovering, towing, or storing mobile homes.
- 713.79 Liens for interior design services.

713.50 Liens upon property.—Liens prior in dignity to all others accruing thereafter shall exist in favor of the following persons, upon the following described personal property under the circumstances hereinafter mentioned in this part. This part is limited to liens on personal property and their enforcement and related matters.

History.—ss. 1, 6, ch. 3747, 1887; RS 1726, 1730; s. 1, ch. 5143, 1903; GS 2190, 2196; RGS 3495, 3502; CGL 5349, 5363; s. 44, ch. 16042, 1933; s. 36, ch. 67-254; s. 1, ch. 69-97; s. 1, ch. 88-249.

Note.—Former s. 85.01.

713.56 Liens for labor on and with machines, etc.—In favor of any person by herself or himself or others performing any labor upon or with any engine, machine, apparatus, fixture, implement, newspaper or printing material or other property, or doing work in any hotel; upon such engine, machine, material, apparatus, fixture, implement, newspaper or printing material, or other property, and upon the furniture, furnishings and belongings of said hotel.

History.—s. 6, ch. 3747, 1887; RS 1730; s. 1, ch. 4583, 1897; GS 2196; RGS 3503; CGL 5364; s. 36, ch. 67-254; s. 821, ch. 97-102.

Note.—Former s. 85.07.

713.57 Liens for labor on logs and timber.—In favor of any person by herself or himself or others cutting, rafting, running, driving, or performing other labor upon logs or timber of any kind; on such logs and timber, and on any article manufactured therefrom.

History.—s. 7, ch. 3747, 1887; RS 1731; GS 2197; RGS 3504; CGL 5365; s. 36, ch. 67-254; s. 822, ch. 97-102.

Note.—Former s. 85.08.

713.58 Liens for labor or services on personal property.—

(1) In favor of persons performing labor or services for any other person, upon the personal property of the latter upon which the labor or services is performed, or which is used in the business, occupation, or employment in which the labor or services is performed.

(2) It is unlawful for any person, knowingly, willfully, and with intent to defraud, to remove any property upon which a lien has accrued under this section without first making full payment to the person performing labor or services of all sums due and payable for such labor or services or without first having the written consent of such person so performing the labor or services so to remove such property.

(3) In that the possessory right and lien of the person performing labor or services under this section is released, relinquished, and lost by the removal of such property upon which a lien has accrued, it shall be deemed prima facie evidence of intent to defraud if, upon the removal of such property, the person removing such property utters, delivers, or gives any check, draft, or written order for the payment of money in payment of the indebtedness secured by the lien and then stops payment on such check, draft, or written order.

(4) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by fine of not more than \$500 or imprisonment in the county jail for not more than 3 months.

History.—s. 10, ch. 3747, 1887; RS 1732; GS 2198; RGS 3505; s. 1, ch. 8474, 1921; CGL 5366; s. 36, ch. 67-254; s. 1, ch. 70-340.

Note.—Former s. 85.09.

713.585 Enforcement of lien by sale of motor vehicle.—A person claiming a lien under s. 713.58 for performing labor or services on a motor vehicle may enforce such lien by sale of the vehicle in accordance with the following procedures:

(1) The lienor must give notice, by certified mail, return receipt requested, within 15 business days, excluding Saturday and Sunday, from the beginning date of the assessment of storage charges on said motor vehicle, to the registered owner of the vehicle, to the customer as indicated on the order for repair, and to all other persons claiming an interest in or lien thereon, as disclosed by the records of the Department of Highway Safety and Motor Vehicles or as disclosed by the records of any corresponding agency of any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being the current state where the vehicle is titled. Such notice must contain:

- (a) A description of the vehicle (year, make, vehicle identification number) and its location.
- (b) The name and address of the owner of the vehicle, the customer as indicated on the order for repair, and any person claiming an interest in or lien thereon.
- (c) The name, address, and telephone number of the lienor.
- (d) Notice that the lienor claims a lien on the vehicle for labor and services performed and storage charges, if any, and the cash sum which, if paid to the lienor, would be sufficient to redeem the vehicle from the lien claimed by the lienor.
- (e) Notice that the lien claimed by the lienor is subject to enforcement pursuant to this section and that the vehicle may be sold to satisfy the lien.
- (f) If known, the date, time, and location of any proposed or scheduled sale of the vehicle. No vehicle may be sold earlier than 60 days after completion of the repair work.
- (g) Notice that the owner of the vehicle or any person claiming an interest in or lien thereon has a right to a hearing at any time prior to the scheduled date of sale by filing a demand for hearing with the clerk of the circuit court in the county in which the vehicle is held and mailing copies of the demand for hearing to all other owners and lienors as reflected on the notice.
- (h) Notice that the owner of the vehicle has a right to recover possession of the vehicle without instituting judicial proceedings by posting bond in accordance with the provisions of s. 559.917.
- (i) Notice that any proceeds from the sale of the vehicle remaining after payment of the amount claimed to be due and owing to the lienor will be deposited with the clerk of the circuit court for disposition upon court order pursuant to subsection (8).

(2) If attempts to locate the owner or lienholder are unsuccessful after a check of the records of the Department of Highway Safety and Motor Vehicles and any state disclosed by the check of the National Motor Vehicle Title Information System or an equivalent commercially available system, the lienor must notify the local law enforcement agency in writing by certified mail or acknowledged hand delivery that the lienor has been unable to locate the owner or lienholder, that a physical search of the vehicle has disclosed no ownership information, and that a good faith effort, including records checks of the Department of Highway Safety and Motor Vehicles database and the National Motor Vehicle Title Information System or an equivalent commercially available system, has been made. A description of the motor vehicle which includes the year, make, and identification number must be given on the notice. This notification must take place within 15 business days, excluding Saturday and Sunday, from the beginning date of the assessment of storage charges on said motor vehicle. For purposes of this paragraph, the term “good faith effort” means that the following

checks have been performed by the company to establish the prior state of registration and title:

- (a) A check of the Department of Highway Safety and Motor Vehicles database for the owner and any lienholder;
 - (b) A check of the federally mandated electronic National Motor Vehicle Title Information System or an equivalent commercially available system to determine the state of registration when there is not a current title or registration record for the vehicle on file with the Department of Highway Safety and Motor Vehicles;
 - (c) A check of vehicle for any type of tag, tag record, temporary tag, or regular tag;
 - (d) A check of vehicle for inspection sticker or other stickers and decals that could indicate the state of possible registration; and
 - (e) A check of the interior of the vehicle for any papers that could be in the glove box, trunk, or other areas for the state of registration.
- (3) If the date of the sale was not included in the notice required in subsection (1), notice of the sale must be sent by certified mail, return receipt requested, not less than 15 days before the date of sale, to the customer as indicated on the order for repair, and to all other persons claiming an interest in or lien on the motor vehicle, as disclosed by the records of the Department of Highway Safety and Motor Vehicles or of a corresponding agency of any other state in which the vehicle appears to have been registered after completion of a check of the National Motor Vehicle Title Information System or an equivalent commercially available system.
- (4) The lienor, at least 15 days before the proposed or scheduled date of sale of the vehicle, shall publish the notice required by this section once in a newspaper circulated in the county where the vehicle is held. A certificate of compliance with the notification provisions of this section, verified by the lienor, together with a copy of the notice and return receipt for mailing of the notice required by this section, proof of publication, and checks of the Department of Highway Safety and Motor Vehicles and the National Motor Vehicle Title Information System or an equivalent commercially available system, must be duly and expeditiously filed with the clerk of the circuit court in the county where the vehicle is held. The lienor, at the time of filing the certificate of compliance, must pay to the clerk of that court a service charge of \$10 for indexing and recording the certificate.
- (5) At any time prior to the proposed or scheduled date of sale of a vehicle, the owner of the vehicle, or any person claiming an interest in the vehicle or a lien thereon, may file a demand for hearing with the clerk of the circuit court in the county in which the vehicle is held to determine whether the vehicle has been wrongfully taken or withheld from her or him. Any person who files a demand for hearing shall mail copies of the demand to all other owners and lienors as reflected on the notice required in subsection (1). Upon the filing of a demand for hearing, a hearing shall be held prior to the proposed or scheduled date of sale of the vehicle.
- (6) In the event a lienor institutes a judicial proceeding to enforce a lien, no filing fee shall be required at the time of filing, but the court shall require the lienor to pay the filing fee unless the lienor shall prevail in the action.
- (7) At the hearing on the complaint, the court shall forthwith issue its order determining:
- (a) Whether the vehicle is subject to a valid lien by the lienor and the amount thereof;
 - (b) The priority of the lien of the lienor as against any existing security interest in the vehicle;
 - (c) The distribution of any proceeds of the sale by the clerk of the circuit court;
 - (d) The award of reasonable attorney's fees and costs to the prevailing party; and
 - (e) The reasonableness of storage charges.
- (8) A vehicle subject to lien enforcement pursuant to this section must be sold by the lienor at public sale. Immediately upon the sale of the vehicle and payment in cash of the purchase price, the lienor shall deposit

with the clerk of the circuit court the proceeds of the sale less the amount claimed by the lienor for work done and storage, if any, and all reasonable costs and expenses incurred in conducting the sale, including any attorney's fees and costs ordered by the court. Simultaneously with depositing the proceeds of sale remaining after payment to the lienor, the lienor shall file with the clerk a verified report of the sale stating a description of the vehicle sold, including the vehicle identification number; the name and address of the purchaser; the date of the sale; and the selling price. The report shall also itemize the amount retained by the lienor pursuant to this section and shall indicate whether a hearing was demanded and held. All proceeds held by the court shall be held for the benefit of the owner of the vehicle or any lienholder whose lien is discharged by the sale and shall be disbursed only upon order of the court. Unless a proceeding is initiated to validate a claim to such proceeds within 1 year and a day from the date of the sale, the proceeds shall be deemed abandoned property and disposition thereof shall be governed by s. 705.103. The clerk shall receive 5 percent of the proceeds deposited with her or him, not to exceed \$25, for her or his services under this section.

(9) A copy of the certificate of compliance and the report of sale, certified by the clerk of the court, and proof of the required check of the National Motor Vehicle Title Information System or an equivalent commercially available system shall constitute satisfactory proof for application to the Department of Highway Safety and Motor Vehicles for transfer of title, together with any other proof required by any rules and regulations of the department.

(10) Nothing contained in this section shall be construed as affecting an owner's right to redeem her or his vehicle from the lien at any time prior to sale by paying the amount claimed by the lienor for work done and assessed storage charges, plus any costs incurred by the repair shop for utilizing enforcement procedures under this section.

(11) Nothing in this section shall operate in derogation of the rights and remedies established by s. 559.917.

(12) When a vehicle is sold by a lienor in accordance with this law, a purchaser for value takes title to the vehicle free and clear of all claims, liens, and encumbrances whatsoever, unless otherwise provided by court order.

(13) A failure to make good faith efforts as defined in subsection (2) precludes the imposition of any storage charges against the vehicle. If a lienor fails to provide notice to any person claiming a lien on a vehicle under subsection (1) within 15 business days after the assessment of storage charges has begun, then the lienor is precluded from charging for more than 15 days of storage, but failure to provide timely notice does not affect charges made for repairs, adjustments, or modifications to the vehicle or the priority of liens on the vehicle.

History.—s. 1, ch. 80-139; s. 475, ch. 81-259; s. 10, ch. 87-145; s. 3, ch. 90-307; s. 76, ch. 94-237; s. 823, ch. 97-102; s. 74, ch. 2013-160.

713.59 Liens for labor in raising crops.—In favor of any person performing any labor in, or managing or overseeing, the cultivation or harvesting of crops; upon the crops cultivated or harvested.

History.—ch. 1899, 1872; s. 9, ch. 3747, 1887; RS 1733; GS 2199; RGS 3506; CGL 5367; s. 36, ch. 67-254.

Note.—Former s. 85.10.

713.595 Liens for labor or services in ginning cotton.—

(1) A lien prior in dignity to all others accruing thereafter shall exist in favor of any person performing the service of ginning or classifying cotton for any cotton producer.

(2) In addition to, or in lieu of, any other remedy provided by law or in equity for the enforcement of this lien:

(a) The ginner or classifier may withhold the producer's warehouse receipts until the ginner or classifier has been paid in full;

(b) A purchaser or lender may withhold from the producer the proceeds from a sale of the cotton or a loan on the cotton until the ginner or classifier has been paid in full; or

(c) The purchaser of the cotton may make payment jointly to the producer and the ginner or classifier. The ginner or classifier may withhold from the joint payment only the amount owed for ginning or classifying such cotton.

History.—s. 1, ch. 88-228.

713.596 Molder's liens.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Customer” means any person who causes a molder to fabricate, cast, or otherwise make a mold, or who provides a molder with a mold with which to manufacture, assemble, cast, fabricate, or otherwise make a product for a customer.

(b) “Mold” means a die, mold, form, or pattern, but does not include computer software used to control or direct automatic machines in a manufacturing process, and does not include impressions, molds, models, or study casts used by a dentist, orthotist, or prosthetist within the scope of his or her practice.

(c) “Molder” means any person who fabricates, casts, or otherwise makes or uses a mold for the purpose of manufacturing, assembling, casting, fabricating, or otherwise making a product for a customer. The term includes a tool or die maker.

(2) LIENS.—

(a) A molder that has not received payment from a customer in accordance with the terms of the contract between the two has a lien on a mold in the molder's possession which belongs to that customer. The lien is for the balance due the molder from the customer for any work that the molder has performed for the customer in manufacturing or fabricating products for the customer using the mold and for the value of all material related to such work. The molder may retain possession of the mold until the debts are paid.

(b) Before enforcing the lien, the molder must notify the customer in writing of the claim of lien. The notice must be either delivered personally or sent by certified mail, return receipt requested, to the last known address of the customer. The notice must state that the molder claims a lien for the balance due for work that the molder has performed in manufacturing or fabricating products for the customer using the mold and for the value of related materials as is specified in the notice. Additionally, the notice must include a statement of the amount of the balance owed, a demand for payment, and a statement of the location of the mold. Finally, the notice must include the following warning in conspicuous type and in substantially the following form:

WARNING: YOUR FAILURE TO PAY THE UNPAID BALANCE AS STATED HEREIN WILL RESULT IN THE IMPOSITION OF A LIEN ON THE MOLD DESCRIBED HEREIN AND IN THE SALE OF THAT MOLD AS PROVIDED BY LAW.

(c) If the customer does not pay the amount due as stated in the notice within 60 days after the date of receipt of the notice, the molder may sell the mold at a public auction. However, the mold may not be sold if there is a good faith dispute or litigation between the molder and the customer concerning either the quality of the products made or fabricated by use of the mold or the amount due.

(3) SALE.—

(a) Before a molder may sell a mold, the molder must notify the customer and any holder of a security interest perfected in this state of the intended sale. The notice must be by certified mail, return receipt requested, and must include:

1. Notice of the molder's intent to sell the mold 30 days after the customer's receipt of the notice.
2. A description of the mold to be sold.
3. The time and place of the sale.

4. An itemized statement of the amount due.

(b) If there is no return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the molder must publish notice, at least 30 days before the date of sale in a newspaper of general circulation in the county of the customer's last known place of business, of the molder's intent to sell the mold. The notice must include a description of the mold to be sold and the time and place of the sale.

(c)1. The proceeds of the sale must be paid first to any holder of a security interest perfected in this state. Any excess must be paid to the molder holding the lien created by this section. Any remaining amount is to be paid to the customer, if the customer's address is known, or to the Chief Financial Officer for deposit in the General Revenue Fund if the customer's address is unknown to the molder at the time of the sale.

2. A sale may not be made under this section if it would be in violation of any right of a customer under federal patent or copyright law.

History.—s. 2, ch. 98-215; s. 1880, ch. 2003-261.

713.60 Liens for labor on or for vessels.—In favor of any person performing for himself or herself or others, any labor, or furnishing any materials or supplies for use in the construction of any vessel or watercraft; and in favor of any person performing for himself or herself or others, any labor or service of any kind, on, to or for the use or benefit of a vessel or watercraft, including masters, mates and members of the crew and persons loading or unloading the vessel or putting in or taking out ballast; upon such vessel or watercraft, whether partially or completely constructed and whether launched or on land, her tackle, apparel and furniture.

History.—s. 1, ch. 3612, 1885; RS 1734; GS 2200; s. 10, ch. 7838, 1919; RGS 3507; CGL 5368; s. 36, ch. 67-254; s. 824, ch. 97-102.

Note.—Former s. 85.11.

713.61 Liens for manufacturing and repairing articles.—In favor of any person who shall manufacture, alter or repair any article or thing of value; upon such article or thing.

History.—s. 5, ch. 3747, 1887; RS 1735; GS 2201; RGS 3508; CGL 5369; s. 36, ch. 67-254.

Note.—Former s. 85.12.

713.62 Liens for furnishing articles to be manufactured.—In favor of any person who shall furnish any logs, lumber, clay, sand, stone or other material whatsoever, crude or partially or wholly prepared for use, to any mill or other manufactory to be manufactured into any article of value; upon all such articles furnished and upon all articles manufactured therefrom.

History.—s. 7, ch. 3747, 1887; RS 1736; GS 2202; RGS 3509; CGL 5370; s. 36, ch. 67-254.

Note.—Former s. 85.13.

713.63 Liens for furnishing locomotives, machinery, etc.—In favor of any person who shall furnish any locomotive or stationary engine, water engine, windmill, car or other machine or parts of machine or instrument for any railroad, telegraph or telephone line, mill, distillery, or other manufactory; upon the articles so furnished.

History.—s. 9, ch. 3747, 1887; RS 1737; GS 2203; RGS 3510; CGL 5371; s. 36, ch. 67-254.

Note.—Former s. 85.14.

713.64 Liens for furnishing material for vessels.—In favor of any ship chandler, storekeeper or dealer furnishing stores, provisions, rigging or other material to or for the use of any ship, vessel, steamboat or other watercraft; on such ship, vessel, steamboat or other watercraft.

History.—s. 14, ch. 40, 1845; ss. 1-4, ch. 1128, 1861; RS 1738; GS 2204; RGS 3511; CGL 5372; s. 36, ch. 67-254.

Note.—Former s. 85.15.

713.65 Liens for care and maintenance of animals.—In favor of all persons feeding or caring for the

horse or other animal of another, including all keepers of livery, sale or feed or feed stables, for feeding or taking care of any horse or other animal put in their charge; upon such horse or other animal.

History.—s. 1, ch. 3618, 1885; RS 1739; GS 2205; RGS 3512; CGL 5373; s. 1, ch. 25048, 1949; s. 36, ch. 67-254.

Note.—Former s. 85.16.

713.655 Liens for professional services of veterinarians.—In favor of any veterinarian who renders professional services to an animal at the request of the owner of the animal, the owner's agent, or a bailee, lessee, or custodian of the animal, for the unpaid portion of the fees for such professional services, upon the animal to which such services were rendered. Such lien shall remain valid and enforceable for a period of 1 year from the date the professional services were rendered, and such lien is to be enforced in the manner provided for the enforcement of other liens on personal property in this state.

History.—s. 1, ch. 88-249.

713.66 Liens for feed, etc., for racehorses, polo ponies and race dogs.—In favor of any person who shall furnish corn, oats, hay, grain or other feed or feedstuffs or straw or bedding material to or upon the order of the owner, or the agent, bailee, lessee, or custodian of the owner, of any racehorse, polo pony or race dog, for the unpaid portion of the price of such supplies upon every racehorse, polo pony, or race dog which consumes any part of such supplies. All racehorses and race dogs of such owner which are accustomed to consume supplies of the character delivered, which are at the time of the delivery of such supplies upon the premises to which delivery is made, shall be deemed prima facie to have consumed such supplies. Such lien shall remain valid and enforceable for a period of 1 year from the dates of the respective deliveries of such corn, oats, hay, grain, feed or feedstuffs, or straw; and such liens are to be enforced in the manner provided for the enforcement of other liens on personal property in this state. Said liens shall be superior to any and all claims, liens and mortgages, whether recorded or unrecorded, including, but not limited to, any lessor's or vendor's lien, and any chattel mortgage, which theretofore may have been or thereafter may be created against such racehorse, polo pony or race dog, and to the claims of any and all purchases thereof.

History.—s. 1, ch. 17092, 1935; CGL 1936 Supp. 5373(1); s. 7, ch. 22858, 1945; s. 36, ch. 67-254.

Note.—Former s. 85.17.

713.665 Liens for furnishing pest control.—The holder of a license under chapter 482 to engage in the business of pest control has and may enforce:

(1) A lien on real property improved for any money that is owed to him or her for labor or services performed or materials furnished in accordance with his or her contract and with the direct contract, subject to the licensee's compliance with the provisions of part I of this chapter.

(2) A lien for labor and services on personal property upon which the licensee has performed pest control, subject to the licensee's compliance with the provisions of part I of this chapter and s. 713.58.

History.—s. 1, ch. 59-454; s. 1, ch. 65-295; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 14, 15, ch. 82-229; s. 22, ch. 90-109; ss. 49, 59, ch. 92-203; s. 825, ch. 97-102.

Note.—Former s. 482.201.

713.67 Liens for board, lodging, etc., at hotels, etc.—In favor of keepers of hotels, apartment houses, roominghouses, and boardinghouses for the board, lodging and occupancy of and for moneys advanced to transient guests or tenants, upon the goods and chattels belonging to such guests or tenants in such hotel, apartment house, roominghouse or boardinghouse, including garage and storeroom. Upon the nonpayment of such sums in accordance with the rules of such hotels, apartment houses, roominghouses or boardinghouses, the keeper thereof may instantly eject such transient guests or tenants therefrom.

History.—s. 6, ch. 1999, 1874; RS 1740; GS 2206; RGS 3513; CGL 5374; s. 44, ch. 16042, 1933; s. 36, ch. 67-254; s. 6, ch. 73-330.

Note.—Former s. 85.18.

713.68 Liens for hotels, apartment houses, roominghouses, boardinghouses, etc.—In favor of any person conducting or operating any hotel, apartment house, roominghouse, boardinghouse or tenement house where rooms or apartments are let for hire or rental on a transient basis. Such lien shall exist on all the property including trunks, baggage, jewelry and wearing apparel, guns and sporting goods, furniture and furnishings and other personal property of any person which property is brought into or placed in any room or apartment of any hotel, apartment house, lodginghouse, roominghouse, boardinghouse or tenement house when such person shall occupy, on a transient basis, such room or apartment as tenant, lessee, boarder, roomer or guest for the privilege of which occupancy money or anything of value is to be paid to the person conducting or operating such hotel, apartment house, roominghouse, lodginghouse, boardinghouse or tenement house. Such lien shall continue and be in full force and effect for the amount payable for such occupancy until the same shall have been fully paid and discharged.

History.—s. 1, ch. 12080, 1927; CGL 5375; s. 36, ch. 67-254; s. 7, ch. 73-330.

Note.—Former s. 85.19.

713.69 Unlawful to remove property upon which lien has accrued.—It is unlawful for any person to remove any property upon which a lien has accrued under the provisions of s. 713.68 from any hotel, apartment house, roominghouse, lodginghouse, boardinghouse or tenement house without first making full payment to the person operating or conducting the same of all sums due and payable for such occupancy or without first having the written consent of such person so conducting or operating such place to so remove such property. Any person violating the provisions of this section shall, if the property removed in violation hereof be of the value of \$50 or less, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; and if the property so removed should be of greater value than \$50 then such person shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—ss. 2, 3, ch. 12080, 1927; CGL 5376, 7323; s. 36, ch. 67-254; s. 687, ch. 71-136.

Note.—Former s. 85.20.

713.691 Landlord's lien for rent; exemptions.—

(1) With regard to a residential tenancy, the landlord has a lien on all personal property of the tenant located on the premises for accrued rent due to the landlord under the rental agreement. This lien shall be in addition to any other liens upon such property which the landlord may acquire by law and may be modified or waived, in whole or in part, by the provisions of a written rental agreement. The landlord's lien for rent shall attach to the tenant's personal property at the time the sheriff gives the landlord possession of the premises, but it is not required that the tenant's property be removed in order to give the landlord possession of the premises.

(2) When the tenant is the head of a family, personal property owned by her or him in the value of \$1,000 is exempt from the lien provided by this section. This subsection does not authorize an exemption any greater than that which may be available to the tenant in s. 4, Art. X of the State Constitution.

(3) The remedy of distress for rent is abolished with regard to residential tenancies.

History.—s. 3, ch. 73-330; s. 9, ch. 87-195; s. 8, ch. 88-379; s. 826, ch. 97-102.

713.70 Lien for service of stallions and other animals.—In favor of owners of stallions, jackasses or bulls, upon the colt or calf of the get of said stallion, jackass or bull, and also upon the mare, jenny or cow served by said stallion, jackass or bull in breeding thereof for the sum stipulated to be paid for the service thereof, by filing at any time within 18 months after the date of service a statement of the account thereof, together with the description as to color and markings of the female served, and the name of the owner at the date of service, in the office of the county clerk of the county wherein the owner of the said female

resided at the time of service. Neither the mare, jenny or cow, nor the get thereof, shall be sold within 18 months after the date of service, unless the service fee shall be paid, unless such sale shall be agreed to and approved in writing by the owner of the stallion, jackass or bull at the time of the sale or transfer of the mare, jenny or cow, or offspring thereof. At any time after such mare, jenny or cow shall conceive, anyone having the lien herein provided may enforce the same in the same manner as is now provided by law.

History.—s. 1, ch. 4352, 1895; GS 2207; s. 1, ch. 7362, 1917; RGS 3514; CGL 5377; s. 36, ch. 67-254.

Note.—Former s. 85.21.

713.71 Liens for loans and advances.—Any person who shall procure a loan or advance of money or goods and chattels, wares or merchandise or other things of value, to aid him or her in the business of planting, farming, timber-getting or any other kind of businesses in this state, from any factor, merchant, firm or person in this state, or in the United States or in any foreign country, shall, by this part, be held to have given to the lender, lenders, or person making such advance, a statutory lien of prior dignity to all other encumbrances, saving and excepting liens for labor and liens in favor of landlords, upon all the timber-getting, all the crops, and products grown or anything else made or grown by said person, through the assistance of said loan or advances; provided, that the lien above-given shall not be created unless the person obtaining or procuring such loan or advance shall give to the person making such loan or advance an instrument of writing consenting to said lien; and the same shall be recorded in the office of the clerk of the circuit court of the county wherein such business of planting, farming, or timber-getting is conducted.

History.—s. 1, ch. 4163, 1893; GS 2208; RGS 3515; CGL 5378; s. 36, ch. 67-254; s. 827, ch. 97-102.

Note.—Former s. 85.22.

713.73 Priority of foregoing liens.—Liens for labor and liens for material provided for by this law shall take priority among themselves according to the times that the notices required to create such liens respectively were given or were recorded in the cases where record is required; that is to say, each such lien which shall have attached to the property shall be paid before any such lien which shall have subsequently attached thereto, shall be entitled to be paid.

History.—s. 12, ch. 5143, 1903; GS 2209; RGS 3516; CGL 5379; s. 36, ch. 67-254.

Note.—Former s. 85.24.

713.74 Acquisition of liens by persons in privity with the owner.—As against the owner of personal property upon which a lien is claimed under this part, the lien shall be acquired by any person in privity with the owner by the performance of the labor or the furnishing of the materials. There shall be no lien upon personal property as against purchasers and creditors without notice unless the person claiming the lien is in possession of the property upon which the lien is claimed. The lien shall continue as long as the possession continues, not to exceed 3 months after performance of the labor or furnishing the material.

History.—RS 1742; s. 1, ch. 4582, 1897; ss. 8, 9, 11, ch. 5143, 1903; GS 2210; RGS 3517; CGL 5380; s. 36, ch. 67-254; s. 4, ch. 69-97.

Note.—Former s. 85.25.

713.75 Acquisition of liens by persons not in privity with the owner.—A person entitled to acquire a lien not in privity with the owner of the personal property shall acquire a lien upon the owner's personal property as against the owner and persons claiming through her or him by delivery to the owner of a written notice that the person for whom the labor has been performed or the material furnished is indebted to the person performing the labor or furnishing the material in the sum stated in the notice. A person who is performing or is about to perform labor or is furnishing or is about to furnish materials for personal property may deliver to the owner a written cautionary notice that she or he will do so. A lien shall exist from the time of delivery of either notice for the amount unpaid on the contract of the owner with the person contracting

with the lienor and the delivery of the notice shall also create a personal liability against the owner of the personal property in favor of the lienor giving the notice, but not to a greater extent than the amount then unpaid on the contract between the owner and the person with whom the owner contracted. There shall be no lien upon personal property as against creditors and purchasers without notice except under the circumstances and for the time prescribed in s. 713.74 and for the amount of the debt due to the lienor at the time of the service of the notice provided for in this section.

History.—RS 1743; s. 2, ch. 4582, 1897; ss. 1, 15, ch. 5143, 1903; GS 2211; RGS 3518; CGL 5381; s. 36, ch. 67-254; s. 5, ch. 69-97; s. 828, ch. 97-102.

Note.—Former s. 85.26.

713.76 Release of lien by filing bond.—

(1) Any lienee may release his or her property from any lien claimed thereon under this part by filing with the clerk of the circuit court a cash or surety bond, payable to the person claiming the lien, in the amount of the final bill, and conditioned for the payment of any judgment which may be recovered on said lien, with costs.

(2) Whenever a lienee brings an action in the appropriate court with respect to any property which has been wrongfully detained by a lienor in violation of this section, the lienee, upon a judgment in the lienee's favor, shall be entitled to damages, reasonable court costs, and attorney's fees sustained by the lienee by reason of such wrongful detention.

(3) Any lienor who, upon the posting of the bond, fails to release or return the property to the lienee pursuant to this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 8, ch. 1632, 1868; RS 1749; s. 19, ch. 5143, 1903; GS 2225; RGS 3532; CGL 5396; s. 36, ch. 67-254; s. 1, ch. 77-387; s. 167, ch. 91-224; s. 829, ch. 97-102.

Note.—Former s. 85.27.

713.77 Liens of owners, operators, or keepers of mobile home or recreational vehicle parks; ejection of occupants.—A lien prior in dignity to all others except a lien for unpaid purchase price shall exist in favor of the owner, operator, or keeper of a mobile home park or recreational vehicle park for rent owing by, and for money or other property advanced to, any occupant thereof upon the goods, chattels, or other personal property of such occupant. Upon the nonpayment of such sums in accordance with the rules of such park, or for failure to observe any provision of this part or the rules and regulations prescribed by the Department of Health, the owner, operator, or keeper thereof may instantly eject such occupant therefrom. A lien created in favor of an owner or operator of a mobile home park or recreational vehicle park may be enforced in the same manner as is now or may hereafter be provided by law for the enforcement of liens in favor of keepers of hotels and boardinghouses. Nothing in this section, however, shall prevent an owner or operator of a mobile home park or recreational vehicle park from enforcing any claim for rent under and in the manner provided by landlord and tenant acts of this state.

History.—s. 11, ch. 12419, 1927; s. 1, ch. 19365, 1939; CGL 4149; s. 36, ch. 67-254; s. 13, ch. 83-321; s. 277, ch. 99-8.

Note.—Former s. 85.28.

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(1) For the purposes of this section, the term:

(a) "Vehicle" means any mobile item, whether motorized or not, which is mounted on wheels.

(b) "Vessel" means every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02(9).

(c) "Wrecker" means any truck or other vehicle which is used to tow, carry, or otherwise transport motor

vehicles or vessels upon the streets and highways of this state and which is equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

(d) “National Motor Vehicle Title Information System” means the federally authorized electronic National Motor Vehicle Title Information System.

(e) “Equivalent commercially available system” means a service that charges a fee to provide vehicle information and that at a minimum maintains records from those states participating in data sharing with the National Motor Vehicle Title Information System.

(2) Whenever a person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier recovers, removes, or stores a vehicle or vessel upon instructions from:

- (a) The owner thereof;
- (b) The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle or vessel is wrongfully parked, and the removal is done in compliance with s. 715.07;
- (c) The landlord or a person authorized by the landlord, when such motor vehicle or vessel remained on the premises after the tenancy terminated and the removal is done in compliance with s. 715.104; or
- (d) Any law enforcement agency,

she or he shall have a lien on the vehicle or vessel for a reasonable towing fee and for a reasonable storage fee; except that no storage fee shall be charged if the vehicle is stored for less than 6 hours.

(3) This section does not authorize any person to claim a lien on a vehicle for fees or charges connected with the immobilization of such vehicle using a vehicle boot or other similar device pursuant to s. 715.07.

(4)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2), and who claims a lien for recovery, towing, or storage services, shall give notice to the registered owner, the insurance company insuring the vehicle notwithstanding the provisions of s. 627.736, and to all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or as disclosed by the records of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled or registered.

(b) Whenever any law enforcement agency authorizes the removal of a vehicle or vessel or whenever any towing service, garage, repair shop, or automotive service, storage, or parking place notifies the law enforcement agency of possession of a vehicle or vessel pursuant to s. 715.07(2)(a)2., the law enforcement agency of the jurisdiction where the vehicle or vessel is stored shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications, giving the full description of the vehicle or vessel. Upon receipt of the full description of the vehicle or vessel, the department shall search its files to determine the owner’s name, the insurance company insuring the vehicle or vessel, and whether any person has filed a lien upon the vehicle or vessel as provided in s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place shall obtain such information from the applicable law enforcement agency within 5 days after the date of storage and shall give notice pursuant to paragraph (a). The department may release the insurance company information to the requestor notwithstanding the provisions of s. 627.736.

(c) Notice by certified mail shall be sent within 7 business days after the date of storage of the vehicle or vessel to the registered owner, the insurance company insuring the vehicle notwithstanding the provisions of s. 627.736, and all persons of record claiming a lien against the vehicle or vessel. It shall state the fact of possession of the vehicle or vessel, that a lien as provided in subsection (2) is claimed, that charges have accrued and the amount thereof, that the lien is subject to enforcement pursuant to law, and that the owner

or lienholder, if any, has the right to a hearing as set forth in subsection (5), and that any vehicle or vessel which remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold free of all prior liens after 35 days if the vehicle or vessel is more than 3 years of age or after 50 days if the vehicle or vessel is 3 years of age or less.

(d) If attempts to locate the name and address of the owner or lienholder prove unsuccessful, the towing-storage operator shall, after 7 working days, excluding Saturday and Sunday, of the initial tow or storage, notify the public agency of jurisdiction where the vehicle or vessel is stored in writing by certified mail or acknowledged hand delivery that the towing-storage company has been unable to locate the name and address of the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made, including records checks of the Department of Highway Safety and Motor Vehicles ¹database and the National Motor Vehicle Title Information System or an equivalent commercially available ²system. For purposes of this paragraph and subsection (9), "good faith effort" means that the following checks have been performed by the company to establish prior state of registration and for title:

1. Check of the Department of Highway Safety and Motor Vehicles database for the owner and any lienholder.
2. Check of the electronic National Motor Vehicle Title Information System or an equivalent commercially available system to determine the state of registration when there is not a current registration record for the vehicle on file with the Department of Highway Safety and Motor Vehicles.
3. Check of vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.
4. Check of law enforcement report for tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.
5. Check of trip sheet or tow ticket of tow truck operator to see if a tag was on vehicle or vessel at beginning of tow, if private tow.
6. If there is no address of the owner on the impound report, check of law enforcement report to see if an out-of-state address is indicated from driver license information.
7. Check of vehicle or vessel for inspection sticker or other stickers and decals that may indicate a state of possible registration.
8. Check of the interior of the vehicle or vessel for any papers that may be in the glove box, trunk, or other areas for a state of registration.
9. Check of vehicle for vehicle identification number.
10. Check of vessel for vessel registration number.
11. Check of vessel hull for a hull identification number which should be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outmost seaboard side at the end of the hull that bears the rudder or other steering mechanism.

(5)(a) The owner of a vehicle or vessel removed pursuant to the provisions of subsection (2), or any person claiming a lien, other than the towing-storage operator, within 10 days after the time she or he has knowledge of the location of the vehicle or vessel, may file a complaint in the county court of the county in which the vehicle or vessel is stored to determine if her or his property was wrongfully taken or withheld from her or him.

(b) Upon filing of a complaint, an owner or lienholder may have her or his vehicle or vessel released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing or storage and lot rental amount to ensure the payment of such charges in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the lienor of the posting of the bond and directing the lienor to

release the vehicle or vessel. At the time of such release, after reasonable inspection, she or he shall give a receipt to the towing-storage company reciting any claims she or he has for loss or damage to the vehicle or vessel or the contents thereof.

(c) Upon determining the respective rights of the parties, the court may award damages, attorney's fees, and costs in favor of the prevailing party. In any event, the final order shall provide for immediate payment in full of recovery, towing, and storage fees by the vehicle or vessel owner or lienholder; or the agency ordering the tow; or the owner, lessee, or agent thereof of the property from which the vehicle or vessel was removed.

(6) Any vehicle or vessel which is stored pursuant to subsection (2) and which remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge after 35 days from the time the vehicle or vessel is stored therein if the vehicle or vessel is more than 3 years of age or after 50 days following the time the vehicle or vessel is stored therein if the vehicle or vessel is 3 years of age or less. The sale shall be at public sale for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the person in whose name the vehicle or vessel is registered and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled. Notice shall be sent by certified mail to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency and shall be mailed not less than 15 days before the date of the sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days prior to the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, and costs of the sale, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner or lienholder is absent, and the clerk shall hold such proceeds subject to the claim of the owner or lienholder legally entitled thereto. The clerk shall be entitled to receive 5 percent of such proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order. The owner or lienholder may file a complaint after the vehicle or vessel has been sold in the county court of the county in which it is stored. Upon determining the respective rights of the parties, the court may award damages, attorney's fees, and costs in favor of the prevailing party.

(7)(a) A wrecker operator recovering, towing, or storing vehicles or vessels is not liable for damages connected with such services, theft of such vehicles or vessels, or theft of personal property contained in such vehicles or vessels, provided that such services have been performed with reasonable care and provided, further, that, in the case of removal of a vehicle or vessel upon the request of a person purporting, and reasonably appearing, to be the owner or lessee, or a person authorized by the owner or lessee, of the property from which such vehicle or vessel is removed, such removal has been done in compliance with s. 715.07. Further, a wrecker operator is not liable for damage to a vehicle, vessel, or cargo that obstructs the normal movement of traffic or creates a hazard to traffic and is removed in compliance with the request of a law enforcement officer.

(b) For the purposes of this subsection, a wrecker operator is presumed to use reasonable care to prevent the theft of a vehicle or vessel or of any personal property contained in such vehicle stored in the wrecker operator's storage facility if all of the following apply:

1. The wrecker operator surrounds the storage facility with a chain-link or solid-wall type fence at least 6 feet in height;

2. The wrecker operator has illuminated the storage facility with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime; and

3. The wrecker operator uses one or more of the following security methods to discourage theft of vehicles or vessels or of any personal property contained in such vehicles or vessels stored in the wrecker operator's storage facility:

a. A night dispatcher or watchman remains on duty at the storage facility from sunset to sunrise;

b. A security dog remains at the storage facility from sunset to sunrise;

c. Security cameras or other similar surveillance devices monitor the storage facility; or

d. A security guard service examines the storage facility at least once each hour from sunset to sunrise.

(c) Any law enforcement agency requesting that a motor vehicle be removed from an accident scene, street, or highway must conduct an inventory and prepare a written record of all personal property found in the vehicle before the vehicle is removed by a wrecker operator. However, if the owner or driver of the motor vehicle is present and accompanies the vehicle, no inventory by law enforcement is required. A wrecker operator is not liable for the loss of personal property alleged to be contained in such a vehicle when such personal property was not identified on the inventory record prepared by the law enforcement agency requesting the removal of the vehicle.

(8) A person regularly engaged in the business of recovering, towing, or storing vehicles or vessels, except a person licensed under chapter 493 while engaged in "repossession" activities as defined in s. 493.6101, may not operate a wrecker, tow truck, or car carrier unless the name, address, and telephone number of the company performing the service is clearly printed in contrasting colors on the driver and passenger sides of its vehicle. The name must be in at least 3-inch permanently affixed letters, and the address and telephone number must be in at least 1-inch permanently affixed letters.

(9) Failure to make good faith best efforts to comply with the notice requirements of this section shall preclude the imposition of any storage charges against such vehicle or vessel.

(10) Persons who provide services pursuant to this section shall permit vehicle or vessel owners, lienholders, insurance company representatives, or their agents, which agency is evidenced by an original writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths, to inspect the towed vehicle or vessel and shall release to the owner, lienholder, or agent the vehicle, vessel, or all personal property not affixed to the vehicle or vessel which was in the vehicle or vessel at the time the vehicle or vessel came into the custody of the person providing such services.

(11)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2) and who has complied with the provisions of subsections (3) and (6), when such vehicle or vessel is to be sold for purposes of being dismantled, destroyed, or changed in such manner that it is not the motor vehicle or vessel described in the certificate of title, shall report the vehicle to the National Motor Vehicle Title Information System and apply to the Department of Highway Safety and Motor Vehicles for a certificate of destruction. A certificate of destruction, which authorizes the dismantling or destruction of the vehicle or vessel described therein, shall be reassignable a maximum of two times before dismantling or destruction of the vehicle shall be required, and shall accompany the vehicle or vessel for which it is issued, when such vehicle or vessel is sold for such purposes, in lieu of a certificate of title. The application for a certificate of destruction must include proof of reporting to the National Motor Vehicle Title Information System and an affidavit from the applicant that it has complied with all applicable requirements of this section and, if the vehicle or vessel is not registered in this state or any other state, by a statement from a law enforcement officer that the vehicle or vessel is not

reported stolen, and shall be accompanied by such documentation as may be required by the department.

(b) The Department of Highway Safety and Motor Vehicles shall charge a fee of \$3 for each certificate of destruction. A service charge of \$4.25 shall be collected and retained by the tax collector who processes the application.

(12)(a) Any person who violates any provision of subsection (1), subsection (2), subsection (4), subsection (5), subsection (6), or subsection (7) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who violates the provisions of subsections (8) through (11) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who uses a false or fictitious name, gives a false or fictitious address, or makes any false statement in any application or affidavit required under the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Employees of the Department of Highway Safety and Motor Vehicles and law enforcement officers are authorized to inspect the records of any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels or transporting vehicles or vessels by wrecker, tow truck, or car carrier, to ensure compliance with the requirements of this section. Any person who fails to maintain records, or fails to produce records when required in a reasonable manner and at a reasonable time, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(13)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a wrecker operator who claims a wrecker operator's lien under ³paragraph (2)(c) or ⁴paragraph (2)(d) for recovery, towing, or storage of an abandoned vehicle or vessel upon instructions from any law enforcement agency, for which a certificate of destruction has been issued under subsection (11) and the vehicle has been reported to the National Motor Vehicle Title Information System, the department shall place the name of the registered owner of that vehicle or vessel on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8). If the vehicle or vessel is owned jointly by more than one person, the name of each registered owner shall be placed on the list. The notice of wrecker operator's lien shall be submitted on forms provided by the department, which must include:

1. The name, address, and telephone number of the wrecker operator.
2. The name of the registered owner of the vehicle or vessel and the address to which the wrecker operator provided notice of the lien to the registered owner under subsection (4).
3. A general description of the vehicle or vessel, including its color, make, model, body style, and year.
4. The vehicle identification number (VIN); registration license plate number, state, and year; validation decal number, state, and year; vessel registration number; hull identification number; or other identification number, as applicable.
5. The name of the person or the corresponding law enforcement agency that requested that the vehicle or vessel be recovered, towed, or stored.
6. The amount of the wrecker operator's lien, not to exceed the amount allowed by paragraph (b).

(b) For purposes of this subsection only, the amount of the wrecker operator's lien for which the department will prevent issuance of a license plate or revalidation sticker may not exceed the amount of the charges for recovery, towing, and storage of the vehicle or vessel for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit the amount of a wrecker operator's lien claimed under subsection (2) or prevent a wrecker operator from seeking civil remedies for enforcement of the entire amount of the lien, but limits only that portion of the lien for which the department will prevent issuance of a license plate or revalidation sticker.

(c)1. The registered owner of a vehicle or vessel may dispute a wrecker operator's lien, by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

a. The registered owner presents a notarized bill of sale proving that the vehicle or vessel was sold in a private or casual sale before the vehicle or vessel was recovered, towed, or stored.

b. The registered owner presents proof that the Florida certificate of title of the vehicle or vessel was sold to a licensed dealer as defined in s. 319.001 before the vehicle or vessel was recovered, towed, or stored.

c. The records of the department were marked "sold" prior to the date of the tow.

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. If the vehicle or vessel is owned jointly by more than one person, each registered owner must dispute the wrecker operator's lien in order to be removed from the list. However, the department shall deny any dispute and maintain the registered owner's name on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8) if the wrecker operator has provided the department with a certified copy of the judgment of a court which orders the registered owner to pay the wrecker operator's lien claimed under this section. In such a case, the amount of the wrecker operator's lien allowed by paragraph (b) may be increased to include no more than \$500 of the reasonable costs and attorney's fees incurred in obtaining the judgment. The department's action under this subparagraph is ministerial in nature, shall not be considered final agency action, and is appealable only to the county court for the county in which the vehicle or vessel was ordered removed.

2. A person against whom a wrecker operator's lien has been imposed may alternatively obtain a discharge of the lien by filing a complaint, challenging the validity of the lien or the amount thereof, in the county court of the county in which the vehicle or vessel was ordered removed. Upon filing of the complaint, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the court a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien to ensure the payment of such lien in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party.

3. If a person against whom a wrecker operator's lien has been imposed does not object to the lien, but cannot discharge the lien by payment because the wrecker operator has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the clerk of court in the county in which the vehicle or vessel was ordered removed, a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. The department shall mail to the wrecker operator, at the address upon the lien form, notice that the wrecker operator must claim the security within 60 days, or the security will be released back to the person who posted it. At the conclusion of the 60 days, the

department shall direct the clerk as to which party is entitled to payment of the security, less applicable clerk's fees.

4. A wrecker operator's lien expires 5 years after filing.

(d) Upon discharge of the amount of the wrecker operator's lien allowed by paragraph (b), the wrecker operator must issue a certificate of discharged wrecker operator's lien on forms provided by the department to each registered owner of the vehicle or vessel attesting that the amount of the wrecker operator's lien allowed by paragraph (b) has been discharged. Upon presentation of the certificate of discharged wrecker operator's lien by the registered owner, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. Issuance of a certificate of discharged wrecker operator's lien under this paragraph does not discharge the entire amount of the wrecker operator's lien claimed under subsection (2), but only certifies to the department that the amount of the wrecker operator's lien allowed by paragraph (b), for which the department will prevent issuance of a license plate or revalidation sticker, has been discharged.

(e) When a wrecker operator files a notice of wrecker operator's lien under this subsection, the department shall charge the wrecker operator a fee of \$2, which shall be deposited into the General Revenue Fund. A service charge of \$2.50 shall be collected and retained by the tax collector who processes a notice of wrecker operator's lien.

(f) This subsection applies only to the annual renewal in the registered owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under chapter 320, except for the transfer of registrations which includes the annual renewals. This subsection does not apply to any vehicle registered in the name of the lessor. This subsection does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(8)(b).

History.—s. 2, ch. 76-83; s. 1, ch. 79-206; s. 1, ch. 79-244; s. 1, ch. 79-410; s. 7, ch. 90-283; s. 2, ch. 92-148; s. 10, ch. 93-49; s. 830, ch. 97-102; s. 11, ch. 98-324; s. 64, ch. 99-248; s. 41, ch. 2000-362; s. 3, ch. 2001-164; s. 36, ch. 2001-196; s. 17, ch. 2002-235; s. 16, ch. 2003-179; s. 3, ch. 2005-137; s. 94, ch. 2005-164; s. 10, ch. 2006-172; s. 6, ch. 2009-206; s. 2, ch. 2012-103; s. 71, ch. 2012-181; s. 105, ch. 2013-18; s. 75, ch. 2013-160.

¹**Note.**—The word “database” was added by the editors to improve clarity.

²**Note.**—The word “databases” following the word “system” was deleted by the editors to improve clarity.

³**Note.**—Redesignated as paragraph (2)(d) by s. 75, ch. 2013-160.

⁴**Note.**—Deleted by s. 3, ch. 2005-137.

713.785 Liens for recovering, towing, or storing mobile homes.—

(1) As used in this section, the term:

(a) “Mobile home transport company” means a person regularly engaged in the business of transporting mobile homes.

(b) “Store” means a mobile home transport company has legal possession of a mobile home either on the mobile home transport company's property or on any other property.

(c) “Unpaid lot rental amount” or “rent” means any unpaid financial obligations of the mobile home owner or tenant to the mobile home park owner defined as “lot rental amount” in s. 723.003 or “rent” in part II of chapter 83 and includes any amounts defined as storage charges in s. 723.084.

(2) If the mobile home transport company recovers, removes, or stores a mobile home upon instructions from:

(a) The owner of the mobile home;

(b) Any law enforcement agency; or

(c) A mobile home park owner as defined in s. 723.003 who has a current writ of possession for a mobile home lot under s. 723.062 or s. 83.62,

the mobile home transport company has a lien on the mobile home for a reasonable towing fee and for a reasonable storage fee.

(3)(a) A mobile home transport company that comes into possession of a mobile home under subsection (2) and that claims a lien for recovery, towing, or storage services must give notice to the registered owner and to all persons claiming a lien on the mobile home, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or of a corresponding agency in any other state.

(b) Notice by certified mail, return receipt requested, shall be sent within 7 business days after the date of storage of the mobile home to the registered owner at the owner's last known address, and all persons of record claiming a lien against the mobile home. The notice shall state the fact of possession of the mobile home, that a lien as provided in subsection (2) is claimed, that charges have accrued and the amount thereof, that the lien is subject to enforcement under law and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (4), and that any mobile home which remains unclaimed, or for which charges remain unpaid, may be sold free of all prior liens after 35 days following the eviction proceeding that resulted in the issuance of the writ of possession, provided that any lienholder entitled to notice pursuant to s. 723.084 has received such notice and has failed to act pursuant to s. 723.084 to pay storage charges, take possession of the home, or take legal action to foreclose its interest prior to issuance of the writ of possession.

(4)(a) The owner of a mobile home stored under subsection (2), or any person claiming a lien of record, other than the mobile home transport company, within 10 days after the time she or he has knowledge of the location of the mobile home, may file a complaint in the court of the county in which the mobile home is stored, to determine if her or his property was wrongfully taken or withheld from her or him.

(b) Upon filing of a complaint, an owner or lienholder may have the mobile home released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing or storage and lot rental amount due and owing at that time to ensure the payment of the charges in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the mobile home transport company of the posting of the bond and directing the mobile home transport company to release the mobile home. At the time of the release, after reasonable inspection, she or he shall give a receipt to the mobile home transport company citing any claims she or he has for loss or damage to the mobile home or the contents thereof.

(c) Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party. The final order shall provide for immediate payment in full of any lien for recovery, towing, and storage fees and any unpaid lot rental amount accruing until the time the home is removed from the property, by the mobile home owner or lienholder, or the owner, lessee, or agent thereof of the property from which the mobile home was removed.

(5) A mobile home that is stored under subsection (2) and which remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid or for which a lot rental amount is due and owing to the mobile home park owner as evidenced by a judgment for unpaid rent and any contents of the mobile home not released under subsection (9), may be sold by the mobile home transport company for the towing or storage charge and any unpaid lot rental amount 35 days after the mobile home is stored by a mobile home transport company. The sale shall be at public auction for cash. If the date of the sale was not included in the notice required by subsection (3), notice of the sale must be given to the person in whose name the mobile home is registered at her or his last known address, to the mobile home park owner, and to all persons claiming a lien on the mobile home as shown on the records of the Department of Highway Safety and Motor Vehicles or of the corresponding agency in any other state. Notice must be sent by certified mail, return receipt requested, at least 15 days before the date of the sale. After diligent search and inquiry, if the

name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale must be made by publishing a notice of the sale one time, at least 10 days before the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, costs of the sale, and the unpaid lot rental amount as evidenced by the judgment for unpaid lot rental and an affidavit executed by the mobile home park owner or the owner's agent establishing the amount of unpaid lot rental amount through the date of the sale, in that order of priority, must be deposited with the clerk of the circuit court for the county if the owner is absent, and the clerk shall hold the proceeds subject to the claim of the person legally entitled to those proceeds. The clerk is entitled to receive 5 percent of the proceeds for the care and disbursement of the proceeds. The certificate of title issued under this section shall be discharged of all liens unless otherwise provided by court order.

(6) The mobile home transport company, the landlord or his or her agent, or any subsequent purchaser for value is not responsible to the tenant or any other party for loss, destruction, or damage to the mobile home or other personal property after coming into possession of the mobile home under this section, provided the mobile home transport company, the landlord, or their agents use reasonable care in storing the mobile home. As used in this subsection, the term "reasonable care" means securing the mobile home by changing door locks, or any similar methods for securing the mobile home, in place in the mobile home park or in a separate storage area.

(7)(a) A mobile home transport company that comes into possession of a mobile home under subsection (2) and that complies with subsection (3), if the mobile home is to be sold for purposes of being dismantled, destroyed, or changed so that it is not the mobile home described in the certificate of title, must apply to the county tax collector for a certificate of destruction. A certificate of destruction, which authorizes the dismantling or destruction of the mobile home described in the certificate, is reassignable no more than twice before dismantling or destruction of the mobile home, and the certificate must accompany the mobile home for which it is issued when the mobile home is sold for that purpose, in lieu of a certificate of title. The application for a certificate of destruction must include an affidavit from the applicant that it has complied with all applicable requirements of this section; must, if the mobile home is not registered in this state, include a statement from a law enforcement officer that the mobile home is not reported stolen; and shall be accompanied by any other documentation as may be required by the department.

(b) The Department of Highway Safety and Motor Vehicles shall charge a fee of \$3 for each certificate of destruction. The tax collector who processes the application shall collect and retain a service charge of \$4.25.

(c) Employees of the Department of Highway Safety and Motor Vehicles and law enforcement officers may inspect the records of each mobile home transport company in this state to ensure compliance with this section.

(8)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a mobile home transport company that claims a lien under paragraph (2)(b) or paragraph (2)(c) for recovery, towing, or storage of a mobile home for which a certificate of destruction has been issued under subsection (7), the department shall place the name of the registered owner of that mobile home on the list of those persons who may not be issued a revalidation sticker under s. 320.03. If the mobile home is owned jointly by more than one person, the name of each registered owner must be placed on the list. The notice of a mobile home transport company's lien must be submitted on forms provided by the department, which must include:

1. The name, address, and telephone number of the mobile home transport company.
2. The name of the registered owner of the mobile home and the address to which the mobile home transport company provided notice of the lien to the registered owner under subsection (3).

3. A general description of the mobile home, including its color, make, model, body style, and year.
4. The mobile home sticker number, state, and year or other identification number, as applicable.
5. The name of the person or the corresponding law enforcement agency that requested that the mobile home be recovered, towed, or stored.
6. The amount of the lien, not to exceed the amount allowed by paragraph (b).

(b) For purposes of this subsection, the amount of the mobile home transport company's lien for which the department will prevent issuance of a revalidation sticker may not exceed the amount of the charges for recovery, towing, and storage of the mobile home for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit the amount of a mobile home transport company's lien claimed under subsection (2) or prevent a mobile home transport company from seeking civil remedies for enforcement of the entire amount of the lien, but limits only that portion of the lien for which the department will prevent issuance of a revalidation sticker.

(c)1. The registered owner of the mobile home may dispute the mobile home transport company's lien by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

- a. The registered owner presents a notarized bill of sale proving that the mobile home was sold in a private or casual sale before the mobile home was recovered, towed, or stored.
- b. The registered owner presents proof that the Florida certificate of title of the mobile home was sold to a licensed dealer as defined in s. 319.001 before the mobile home was recovered, towed, or stored.
- c. The records of the department were marked to indicate that the mobile home was sold before the issuance of the certificate of destruction under subsection (7).

If the registered owner's dispute of a mobile home transport company's lien complies with one of these criteria, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a revalidation sticker under s. 320.03. If the mobile home is owned jointly by more than one person, each registered owner must dispute the mobile home transport company's lien in order to be removed from the list. However, the department shall deny any dispute and maintain the registered owner's name on the list of those persons who may not be issued a revalidation sticker if the mobile home transport company has provided the department with a certified copy of the judgment of a court which orders the registered owner to pay the mobile home transport company's lien claimed under this section. In such a case, the amount of the mobile home transport company's lien allowed by paragraph (b) may be increased to include no more than \$500 of the reasonable costs and attorney's fees incurred in obtaining the judgment. The department's action under this subparagraph is ministerial in nature, is not final agency action, and is appealable only to the county court for the county in which the mobile home was ordered removed.

2. A person against whom a mobile home transport company's lien has been imposed may alternatively obtain a discharge of the lien by filing a complaint, challenging the validity of the lien or the amount thereof, in the county court of the county in which the mobile home was ordered removed. Upon filing of the complaint, the person may have her or his name removed from the list of those persons who may not be issued a revalidation sticker for any mobile home under s. 320.03 upon posting with the court a cash or surety bond or other adequate security equal to the amount of the mobile home transport company's lien to ensure the payment of the lien in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the mobile home transport company's lien. Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party.

3. If a person against whom a mobile home transport company's lien has been imposed does not object to the lien, but cannot discharge the lien by payment because the mobile home transport company has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not be issued a revalidation sticker under s. 320.03, upon posting with the clerk of court in the county in which the mobile home was ordered removed a cash or surety bond or other adequate security equal to the amount of the mobile home transport company's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the mobile home transport company's lien. The department shall mail to the mobile home transport company, at the address upon the lien form, notice that the mobile home transport company must claim the security within 60 days or the security will be released to the person who posted it. At the conclusion of the 60 days, the department shall direct the clerk as to which party is entitled to payment of the security, less applicable fees of the clerk.

4. A mobile home transport company's lien expires 5 years after filing.

(d) Upon discharge of the amount of the mobile home transport company's lien allowed under paragraph (b), the mobile home transport company must issue a certificate of discharged lien on a form provided by the department to each registered owner of the mobile home attesting that the amount of the mobile home transport company's lien allowed under paragraph (b) has been discharged. Upon presentation of the certificate of discharged lien by the registered owner, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a revalidation sticker under s. 320.03. Issuance of a certificate of discharged lien under this paragraph does not discharge the entire amount of the mobile home transport company's lien claimed under subsection (2), but certifies to the department only that the amount of the mobile home transport company's lien allowed by paragraph (b), for which the department will prevent issuance of a revalidation sticker, has been discharged.

(e) When a mobile home transport company files a notice of lien under this subsection, the department shall charge the mobile home transport company a fee of \$2, which must be deposited into the General Revenue Fund. The tax collector who processes a notice of lien shall collect and retain a service charge of \$2.50.

(9) Persons who provide services under this section shall permit a mobile home owner or her or his agent, whose agency is evidenced by a writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths, to inspect the mobile home and shall release to the owner or agent all personal property not affixed to the mobile home, provided there exists no landlord's lien for rent under s. 713.691 or s. 713.77.

(10) Any person who violates subsection (3), subsection (5), subsection (6), subsection (7), or subsection (9) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 4, ch. 2005-137; s. 106, ch. 2013-18.

713.79 Liens for interior design services.—Any person who, as part of his or her services performed as an interior designer, furnishes any articles of furniture, including, but not limited to, desks, tables, lamps, area rugs, wall hangings, photographs, paintings or other works of art, or any items of furnishing, subject to compliance with and the limitations imposed by this part, shall have a lien upon all such articles furnished and upon all such articles manufactured or converted from such furnishing, provided that the same shall be tangible personal property and provided further that such furnishings are rendered in accordance with a written contract and under direct contract with the owner.

History.—s. 3, ch. 85-103; s. 831, ch. 97-102.

OIL AND GAS LIENS

- 713.801 Definitions.
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713.801 Definitions.—As used in this part, the following terms shall have the following meanings unless the context clearly requires another meaning:

- (1) “Interest holder” means a person, or his or her agent, holding, for oil or gas purposes or for any oil or gas pipeline, any interest in the legal or equitable title to any land or any leasehold interest, and shall include purchasers under executory contract, receivers, and trustees.
- (2) “Operator” means the person in charge of operations on lands or leaseholds for oil or gas purposes or for any oil or gas pipeline. For the purposes of this part, an operator shall be deemed to be the agent of the interest holder.
- (3) “Material” means any machinery, equipment, appliances, buildings, structures, tools, bits, or supplies used in connection with any construction, drilling, or operating upon any land or leasehold for oil or gas purposes or for any oil or gas pipeline.
- (4) “Drilling” means drilling, digging, torpedoing, acidizing, perforating, fracturing, testing, logging, cementing, completing, or repairing upon any land or leasehold for oil or gas purposes or for any oil or gas pipeline.
- (5) “Operating” means conducting any operation in connection with, or necessary to, the production of oil or gas, either in the development thereof or in working thereon in the subtractive process.
- (6) “Construction” means construction, maintenance, operation, or repair in connection with any oil or gas pipeline or in connection with, or necessary for, the production of oil or gas, either in the development thereof or in working thereon in the subtractive process.
- (7) “Oil or gas pipeline” means any pipeline laid and designed as a means of transporting natural gas, oil, or gasoline, or their components or derivatives, and the right-of-way therefor.
- (8) “Original contractor” means any person for whose benefit a lien is prescribed by the provisions of s. 713.803.

History.—s. 1, ch. 75-51; s. 832, ch. 97-102.

713.803 Entitlement to lien.—Any person who, under contract with an interest holder or operator, performs any labor or furnishes any material or service used or furnished to be used:

- (1) In the drilling or operating of any oil or gas well upon the land or leasehold of the interest holder or in the construction of any oil or gas pipeline, or
- (2) In the construction of any material so used or employed, whether the labor is performed or the material or service is furnished on or off the said land or leasehold,

shall be entitled to a lien, whether or not a producing well is obtained and whether or not such material is consumed or becomes a part of the completed oil or gas well or oil or gas pipeline, for the amount due him or her for the performance of such labor or the furnishing of such material or service, but in no case greater than the contract price, with legal interest from the date the same was due.

History.—s. 1, ch. 75-51; s. 833, ch. 97-102.

713.805 Property subject to lien.—Liens created under s. 713.803 shall extend to:

(1) The leasehold interest or that portion thereof covered by an assignment, farmout agreement, or operating agreement held by the operator, whichever shall be the lesser interest, held for oil or gas purposes or for any oil or gas pipeline for which the material or service was furnished or for which the labor was performed, and the appurtenances thereunto belonging as title thereto existed on the date such labor was first performed or such material or service was first furnished. However, neither the land itself, apart from the rights granted under an oil or gas lease, nor any mineral interest or royalty interest shall be subject to such lien.

(2) All materials and fixtures owned by the interest holder and used or furnished to be used in the drilling or operating of any oil or gas well, or in the construction of any oil or gas pipeline, located on the land or leasehold held by the interest holder.

(3) All oil or gas wells located on such land or leasehold, the oil or gas produced therefrom, and the proceeds from the sale thereof inuring to those interests subject to such lien.

History.—s. 1, ch. 75-51; s. 1, ch. 77-174.

713.807 Subcontractors' lien.—Any person who shall, under contract, perform any labor or furnish any material or service as a subcontractor under an original contractor, or for or to an original contractor or subcontractor under an original contractor, shall be entitled to a lien for the amount due her or him, but in no case greater than the contract price, upon all the property upon which the lien of an original contractor may attach, to the same extent as an original contractor. The lien provided for in this section shall further extend and attach to all materials and fixtures owned by such original contractor or subcontractor to whom the labor, services, or materials were furnished.

History.—s. 1, ch. 75-51; s. 834, ch. 97-102.

713.809 Forfeiture or failure of title.—If a lien, as provided for in this part, is imposed on an assignment, farmout agreement, operating agreement, or other equitable interest or legal interest in land or in a leasehold estate, which interest is contingent upon the happening of a condition subsequent, such lien may be perfected and entered against such land or against the leasehold estate, notwithstanding the failure of such interest to ripen into legal title or the failure of such conditions subsequent to be fulfilled.

History.—s. 1, ch. 75-51.

713.811 Notice to purchasers of oil and gas.—No lien under this part, to the extent that it may extend to oil or gas or the proceeds from the sale thereof, shall be effective against any purchaser of such oil or gas until the purchaser has received proper written notice of said claim. Such notice shall state the name of the claimant and his or her address, the amount for which the lien is claimed, and a description of the land or leasehold upon which the lien is claimed. Notice shall be delivered personally to the purchaser or by registered or certified mail. A purchaser who has received such notice shall withhold payment for such oil or gas runs to the extent of the lien amount claimed, together with legal interest, until said lien has been satisfied or held to be invalid by a court of competent jurisdiction.

History.—s. 1, ch. 75-51; s. 835, ch. 97-102.

713.813 Liability of interest holder to subcontractors.—Nothing in this part shall be deemed to fix a

liability upon an interest holder greater than the amount for which the interest holder would be liable to the original contractor. Payment made by the interest holder to the original contractor prior to notice of a subcontractor's lien shall be considered satisfaction of obligations to the extent of such payments. Payments made by the interest holder to a subcontractor pursuant to a valid lien shall be considered satisfaction of obligations owed by the interest holder to the contractor under the contract to the extent of such payments.

History.—s. 1, ch. 75-51.

713.815 Date lien arises.—The liens provided for in this part arise on the date of furnishing of the first item of material or service or the date of performance of the first labor. Upon compliance with the provisions of s. 713.821, such lien shall be preferred to all other titles, charges, liens, or encumbrances which may, subsequent to the date the lien herein provided for arises, attach to or upon any of the property upon which a lien is given by this part.

History.—s. 1, ch. 75-51.

713.817 Parity of liens; exception.—All liens arising by virtue of this part upon the same property shall be of the same class, except that liens of persons for the performance of labor shall be preferred to all other liens arising by virtue of this part.

History.—s. 1, ch. 75-51.

713.819 When single claim of lien sufficient.—All labor performed, and materials and services furnished, by any person entitled to a lien under this part shall, for the purposes of this part, be considered to have been performed or furnished under a single contract, regardless of whether or not the same was performed or furnished at different times or on separate orders. However, no more than 90 days shall have elapsed between the date of performance of such labor or the date of furnishing such materials or services and the date on which labor is next performed or materials or services are next furnished.

History.—s. 1, ch. 75-51.

713.821 Claim of lien.—The manner of perfecting a lien under this part shall be the same as that provided in s. 713.08.

History.—s. 1, ch. 75-51.

713.823 Release of lien by filing bond.—Any lienee may release her or his property from any lien under this part in the manner provided by s. 713.76.

History.—s. 1, ch. 75-51; s. 836, ch. 97-102.

713.825 Duration of lien.—No lien provided by this part shall continue for a period longer than 1 year after the claim of lien has been recorded, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction.

History.—s. 1, ch. 75-51.

PART IV FLORIDA UNIFORM FEDERAL LIEN REGISTRATION ACT

713.901 Florida Uniform Federal Lien Registration Act.

713.901 Florida Uniform Federal Lien Registration Act.—

- (1) **SHORT TITLE.**—This section may be cited as the “Florida Uniform Federal Lien Registration Act.”
- (2) **SCOPE.**—This section applies only to federal tax liens and to other federal liens, notices of which, under any act of Congress or any regulation adopted pursuant thereto, are required or permitted to be filed in

the same manner as notices of federal tax liens.

(3) PLACE OF FILING.—

(a) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens, notices of which, under any act of Congress or any regulation adopted pursuant thereto, are required or permitted to be filed in the same manner as notices of federal tax liens, must be filed in accordance with this section.

(b) Notices of liens upon real property for obligations payable to the United States, and certificates and notices affecting the liens, shall be filed in the office of the clerk of the circuit court of the county in which the real property subject to the liens is situated. If by law the county recorder and custodian of the official records of a county is other than the clerk of the circuit court, a reference in this section to the clerk of the circuit court shall be deemed to be the county recorder so designated by law.

(c) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States, and certificates and notices affecting the liens, shall be filed as follows:

1. If the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the Secretary of State.

2. If the person against whose interest the lien applies is a trust that is not covered by subparagraph 1., in the office of the Secretary of State.

3. If the person against whose interest the lien applies is the estate of a decedent, in the office of the Secretary of State.

4. In all other cases, in the office of the clerk of the circuit court of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

(4) EXECUTION OF NOTICES AND CERTIFICATES.—Certification of notices of liens, certificates, or other notices affecting federal liens by the Secretary of the Treasury of the United States or his or her delegate, or by any official or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be filed, and no other attestation, certification, or acknowledgment is necessary.

(5) DUTIES OF FILING OFFICER.—

(a) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in paragraph (b) is presented to a filing officer who is:

1. The Secretary of State or his or her designee, the filing officer shall cause the notice to be marked, held, and indexed in accordance with the provisions of ss. 55.202 and 55.203.

2. Any other officer described in subsection (3), the filing officer shall mark and index the notice or certificate in the same manner as other instruments filed for recording in the official records.

(b) If a certificate of release, nonattachment, discharge, or subordination of any lien, or if a refiled notice of federal lien, is presented to the Secretary of State for filing, he or she shall:

1. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, but the notice of lien to which the certificate relates may not be removed from the files.

2. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.

3. Cause a refiled notice of federal lien to be marked, held, and indexed as if the refiled notice were a continuation statement within the meaning of the Uniform Commercial Code.

(6) FEES.—

(a) The charges or fees of the Secretary of State, with respect to a notice or certificate filed under this section, or for searching records with respect thereto, are:

1. For filing a notice of lien, which fee shall include the cost of filing a certificate of release or nonstatement for said notice of lien, \$25.

2. For indexing of each additional debtor or secured party, \$3.

3. For each additional facing page attached to a notice or certificate, \$3.

4. For use of a nonapproved form, \$5.

5. For filing a certificate of discharge or subordination, \$12.

6. For filing a refiled notice of federal lien, \$12.

7. For filing any other document required or permitted to be filed under this act, \$12.

8. For certifying any record, \$10.

(b) The charges or fees of the clerks of the circuit court with respect to a notice or certificate filed under this section shall be the same as prescribed in s. 28.24, relating to instruments recorded in the official records.

(7) UNIFORMITY OF APPLICATION AND CONSTRUCTION.—This section shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this section among the states enacting it and to permit a filing officer, including the Secretary of State, who is now using a paper filing system to record notices of liens, certificates, and other notices affecting federal tax liens or other federal liens to use a filing system consisting of paper or an electronic or magnetic medium, or some combination thereof, as he or she considers appropriate, and to permit federal officials to file notices of liens upon real or personal property for obligations payable to the United States, and certificates and notices affecting those liens, under the filing system being maintained by the Secretary of State or the filing officer.

History.—s. 1, ch. 92-25; s. 837, ch. 97-102; s. 17, ch. 2001-154; s. 31, ch. 2007-134.