

Committee on Judiciary

CS/CS/HB 1247 — Construction Bonds

by Civil Justice Subcommittee; Business and Professions Subcommittee; and Rep. Perez
(CS/CS/SB 1200 by Rules Committee; Judiciary Committee; and Senator Stargel)

The bill defines the effect of incorrect or incomplete information in a notice of nonpayment for public and private construction contracts. This notice, as provided in existing law, is a notice that a subcontractor must serve on the contractor and the surety to preserve rights to make a claim against the contractor's payment bond.

Under the bill, the negligent inclusion or omission of information in a notice of nonpayment is not a default that would defeat an otherwise valid claim against a payment bond. However, a subcontractor who serves a fraudulent notice of nonpayment forfeits rights under the bond. A notice is fraudulent if it willfully exaggerates amounts unpaid or willfully includes claims for work not performed or materials not furnished or if it is prepared with gross negligence.

Finally, the bill adds contractors to the list of individuals or entities who are entitled to the benefits of a one-way attorney fee statute for prevailing in litigation against a surety that issues a payment or performance bond for a construction project.

If approved by the Governor, these provisions take effect October 1, 2019.

Vote: Senate 40-0; House 110-1