

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

11 Representative(s) J. Miller, Ogles, and Pruitt offered the  
12 following:

14 **Amendment (with title amendment)**

15 On page 3, line 7, through page 7, line 15  
16 remove from the bill: all of said lines

18 and insert in lieu thereof:

19 Section 1. Subsections (2), (5), and (7) of section  
20 218.72, Florida Statutes, are amended, and subsections (8) and  
21 (9) are added to said section, to read:

22 218.72 Definitions.--As used in this part:

23 (2) "Local governmental entity" means a county or  
24 municipal government, school board, school district,  
25 authority, special taxing district, other political  
26 subdivision, community college, or any office, board, bureau,  
27 commission, department, branch, division, or institution  
28 thereof or any project supported by county or municipal funds.

29 (5) "Purchase" means the purchase of goods, or  
30 services, or construction services, the purchase or lease of  
31 personal property, or the lease of real property by a local

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1 governmental entity.

2 (7) "Construction services" means all labor, services,  
3 and materials provided ~~performed~~ in connection with the  
4 construction, alteration, repair, demolition, reconstruction,  
5 or any other improvements to real property that require a  
6 license under parts I and II of chapter 489.

7 (8) "Payment request" means a request for payment for  
8 construction services which conforms with all statutory  
9 requirements and with all requirements specified by the local  
10 governmental entity to which the payment request is submitted  
11 if:

12 (a) Such requirements have been adopted by formal  
13 action of the local governmental entity taken prior to the  
14 transaction to which the payment request applies.

15 (b) The local governmental entity made such  
16 requirements available to vendors.

17 (9) "Agent" means project architect, project engineer,  
18 or any other agency or person acting on behalf of the local  
19 governmental entity.

20 Section 2. Section 218.73, Florida Statutes, is  
21 amended to read:

22 218.73 Timely payment for nonconstruction  
23 services.--The time at which payment is due for a purchase  
24 other than construction services by a local governmental  
25 entity, ~~except for the purchase of construction services, is~~  
26 ~~due~~ must be calculated from:

27 (1) The date on which a proper invoice is received by  
28 the chief disbursement officer of the local governmental  
29 entity after approval by the governing body, if required; or

30 (2) If a proper invoice is not received by the local  
31 governmental entity, the date:

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1 (a) On which delivery of personal property is accepted  
2 by the local governmental entity;

3 (b) On which services are completed;

4 (c) On which the rental period begins; or

5 (d) On which the local governmental entity and vendor  
6 agree in a contract that provides dates relative to payment  
7 periods;

8  
9 whichever date is latest.

10 Section 3. Section 218.735, Florida Statutes, is  
11 amended to read:

12 218.735 Timely payment for purchases of construction  
13 services.--

14 (1) The due date for payment for the purchase of  
15 construction services by a local governmental entity is  
16 determined as follows:

17 (a) If an agent ~~the project architect or project~~  
18 ~~engineer~~ must approve the payment request or invoice prior to  
19 the payment request or invoice being submitted to the local  
20 governmental entity, payment is due 25 ~~20~~ business days after  
21 the date on which the payment request or ~~architect or engineer~~  
22 ~~approves the invoice and the~~ invoice is stamped as received as  
23 provided in s. 218.74(1).

24 (b) If an agent ~~the project architect or project~~  
25 ~~engineer~~ need not approve the payment request or invoice which  
26 is submitted by the contractor, payment is due 20 business  
27 days after the date on which the payment request or invoice is  
28 stamped as received as provided in s. 218.74(1).

29 (2) The local governmental entity may reject the  
30 payment request or invoice within 20 business days after the  
31 date on which the payment request or invoice is stamped as

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1 received as provided in s. 218.74(1). The rejection must be  
2 written and must specify the deficiency in the payment request  
3 or invoice and the action necessary to make the payment  
4 request or invoice proper.

5 (3) If a payment request or an invoice is rejected  
6 under subsection (2) ~~or this subsection~~ and the contractor  
7 submits a corrected payment request or invoice which corrects  
8 the deficiency specified in writing by the local governmental  
9 entity, the corrected payment request or invoice must be paid  
10 or rejected on the later of:

11 (a) Ten business days after the date the corrected  
12 payment request or invoice is stamped as received as provided  
13 in s. 218.74(1); or

14 (b) If the governing body is required by ordinance,  
15 charter, or other law to approve or reject the corrected  
16 payment request or invoice, the first business day after the  
17 next regularly scheduled meeting of the governing body held  
18 after the corrected payment request or invoice is stamped as  
19 received as provided in s. 218.74(1).

20 (4) If a dispute between the local governmental entity  
21 and the contractor cannot be resolved by the procedure in  
22 subsection (3), the dispute must be resolved in accordance  
23 with the dispute resolution procedure prescribed in the  
24 construction contract or in any applicable ordinance. In the  
25 absence of a prescribed procedure, the dispute must be  
26 resolved by the procedure specified in s. 218.76(2).

27 (5) If a local governmental entity disputes a portion  
28 of a payment request or an invoice, the undisputed portion  
29 shall be paid timely, in accordance with subsection (1).~~The~~  
30 ~~payment time periods provided in this section for construction~~  
31 ~~services purchased by a local governmental entity shall not~~

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1 ~~affect contractual provisions or contractual covenants of a~~  
2 ~~local governmental entity in effect on September 30, 1995.~~  
3 (6) When a contractor receives payment from a local  
4 governmental entity for labor, services, or materials  
5 furnished by subcontractors and suppliers hired by the  
6 contractor, the contractor shall remit payment due to those  
7 subcontractors and suppliers within 15 days after the  
8 contractor's receipt of payment. When a subcontractor  
9 receives payment from a contractor for labor, services, or  
10 materials furnished by subcontractors and suppliers hired by  
11 the subcontractor, the subcontractor shall remit payment due  
12 to those subcontractors and suppliers within 15 days after the  
13 subcontractor's receipt of payment. Nothing herein shall  
14 prohibit a contractor or subcontractor from disputing,  
15 pursuant to the terms of the relevant contract, all or any  
16 portion of a payment alleged to be due to another party. In  
17 the event of such a dispute, the contractor or subcontractor  
18 may withhold the disputed portion of any such payment but the  
19 undisputed portion must be remitted within the time limits  
20 imposed by this subsection.

21 ~~(7)(6)~~ All payments due under this section from a  
22 local governmental entity and not made within the time periods  
23 period specified by this section shall bear interest at the  
24 rate of 1 percent per month, or the rate specified by  
25 contract, whichever is greater as specified in s. 218.74(4).

26 Section 4. Section 218.74, Florida Statutes, is  
27 amended to read:

28 218.74 Procedures for calculation of payment due  
29 dates.--

30 (1) Each local governmental entity shall establish  
31 procedures whereby each payment request or invoice received by

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1 the local governmental entity is marked as received on the  
2 date on which it is delivered to an agent or employee of the  
3 local governmental entity or of a facility or office of the  
4 local governmental entity.

5 (2) The payment due date for a local governmental  
6 entity for the purchase of goods or services other than  
7 construction services is 45 days after the date specified in  
8 s. 218.73. The payment due date for the purchase of  
9 construction services is specified in s. 218.735.

10 (3) If the terms under which a purchase is made allow  
11 for partial deliveries and a payment request or proper invoice  
12 is submitted for a partial delivery, the time for payment for  
13 the partial delivery must be calculated from the time of the  
14 partial delivery and the submission of the payment request or  
15 invoice in the same manner as provided in s. 218.73 or s.  
16 218.735.

17 (4) All payments, other than payments for construction  
18 services, due from a local governmental entity and not made  
19 within the time specified by this section bear interest from  
20 30 days after the due date at the rate of 1 percent per month  
21 on the unpaid balance. The vendor must invoice the local  
22 governmental entity for any interest accrued in order to  
23 receive the interest payment. Any overdue period of less than  
24 1 month is considered as 1 month in computing interest.  
25 Unpaid interest is compounded monthly. ~~With respect to each~~  
26 ~~past due payment, interest ceases to accrue after interest on~~  
27 ~~that payment has accrued for 12 months.~~ For the purposes of  
28 this section, the term "1 month" means a period beginning on  
29 any day of one month and ending on the same day of the  
30 following month.

31 Section 5. Section 218.75, Florida Statutes, is

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1 amended to read:

2           218.75 Mandatory interest.--No contract between a  
3 local governmental entity and a vendor or a provider of  
4 construction services shall prohibit the collection of vendor  
5 from invoicing the local governmental entity for late payment  
6 interest charges allowable under this part.

7           Section 6. Section 218.76, Florida Statutes, is  
8 amended to read:

9           218.76 Improper payment request or invoice; resolution  
10 of disputes.--

11           (1) In any case in which an improper payment request  
12 or invoice is submitted by a vendor, the local governmental  
13 entity shall, within 10 days after the improper payment  
14 request or invoice is received by it, notify the vendor that  
15 the payment request or invoice is improper and indicate what  
16 corrective action on the part of the vendor is needed to make  
17 the payment request or invoice proper.

18           (2) In the event a dispute occurs between a vendor and  
19 a local governmental entity concerning payment of a payment  
20 request or an invoice, such disagreement shall be finally  
21 determined by the local governmental entity as provided in  
22 this section. Each local governmental entity shall establish  
23 a dispute resolution procedure to be followed by the local  
24 governmental entity in cases of such disputes. Such procedure  
25 shall provide that proceedings to resolve the dispute shall be  
26 commenced not later than 45 days after the date on which the  
27 payment request or proper invoice was received by the local  
28 governmental entity and shall be concluded by final decision  
29 of the local governmental entity not later than 60 days after  
30 the date on which the payment request or proper invoice was  
31 received by the local governmental entity. Such procedures

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1 shall not be subject to chapter 120, and such procedures shall  
2 not constitute an administrative proceeding which prohibits a  
3 court from deciding de novo any action arising out of the  
4 dispute. If the dispute is resolved in favor of the local  
5 governmental entity, then interest charges shall begin to  
6 accrue 10 ~~15~~ days after the local governmental entity's final  
7 decision. If the dispute is resolved in favor of the vendor,  
8 then interest shall begin to accrue as of the original date  
9 the payment became due.

10 (3) In an action to recover amounts due under s.  
11 218.70-218.80, the prevailing party shall be entitled to  
12 recover court costs and attorney's fees at trial and on  
13 appeal.

14 Section 7. Paragraph (a) of subsection (1) and  
15 paragraph (a) of subsection (2) of section 255.05, Florida  
16 Statutes, are amended to read:

17 255.05 Bond of contractor constructing public  
18 buildings; form; action by materialmen.--

19 (1)(a) Any person entering into a formal contract with  
20 the state or any county, city, or political subdivision  
21 thereof, or other public authority, for the construction of a  
22 public building, for the prosecution and completion of a  
23 public work, or for repairs upon a public building or public  
24 work shall be required, before commencing the work or before  
25 recommencing the work after a default or abandonment, to  
26 execute, deliver to the public owner, and record in the public  
27 records of the county where the improvement is located, a  
28 payment and performance bond with a surety insurer authorized  
29 to do business in this state as surety. The bond must state on  
30 its front page: the name, principal business address, and  
31 phone number of the contractor, the surety, the owner of the

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1 property being improved, and, if different from the owner, the  
2 contracting public entity; the contract number assigned by the  
3 contracting public entity; and a description of the project  
4 sufficient to identify it, such as including, if applicable, a  
5 legal description or ~~and~~ the street address of the property  
6 being improved, and a general description of the improvement.  
7 Such bond shall be conditioned solely upon the contractor's  
8 performance of the construction work ~~that the contractor~~  
9 ~~perform the contract~~ in the time and manner prescribed in the  
10 contract and the contractor's prompt payment ~~promptly make~~  
11 ~~payments~~ to all persons defined in s. 713.01 who furnished  
12 labor, services, or materials for ~~whose claims derive directly~~  
13 ~~or indirectly from~~ the prosecution of the work provided for in  
14 the contract. Any claimant may apply to the governmental  
15 entity having charge of the work for copies of the contract  
16 and bond and shall thereupon be furnished with a certified  
17 copy of the contract and bond. The claimant shall have a right  
18 of action against the contractor and surety for the amount due  
19 him or her, including unpaid finance charges due under the  
20 claimant's contract. Such action shall not involve the public  
21 authority in any expense. When such work is done for the  
22 state and the contract is for \$100,000 or less, no payment and  
23 performance bond shall be required. At the discretion of the  
24 official or board awarding such contract when such work is  
25 done for any county, city, political subdivision, or public  
26 authority, any person entering into such a contract which is  
27 for \$200,000 or less may be exempted from executing the  
28 payment and performance bond. When such work is done for the  
29 state, the Secretary of the Department of Management Services  
30 may delegate to state agencies the authority to exempt any  
31 person entering into such a contract amounting to more than

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1 \$100,000 but less than \$200,000 from executing the payment and  
2 performance bond. In the event such exemption is granted, the  
3 officer or officials shall not be personally liable to persons  
4 suffering loss because of granting such exemption. The  
5 Department of Management Services shall maintain information  
6 on the number of requests by state agencies for delegation of  
7 authority to waive the bond requirements by agency and project  
8 number and whether any request for delegation was denied and  
9 the justification for the denial.

10 (2)(a)1. If a claimant is no longer furnishing labor,  
11 services, or materials on a project, a contractor or the  
12 contractor's agent or attorney may elect to shorten the  
13 prescribed time in this paragraph within which an action to  
14 enforce any claim against a payment bond provided pursuant to  
15 this section may be commenced by recording in the clerk's  
16 office a notice in substantially the following form:

17  
18 NOTICE OF CONTEST OF CLAIM  
19 AGAINST PAYMENT BOND  
20

21  
22 To: ...(Name and address of claimant)...

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

28  
29 DATED on ....., .....  
30  
31

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

2

3

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

13         2. A claimant, except a laborer, who is not in privity  
14 with the contractor shall, before commencing or not later than  
15 45 days after commencing to furnish labor, materials, or  
16 supplies for the prosecution of the work, furnish the  
17 contractor with a notice that he or she intends to look to the  
18 bond for protection. A claimant who is not in privity with the  
19 contractor and who has not received payment for his or her  
20 labor, materials, or supplies shall deliver to the contractor  
21 and to the surety written notice of the performance of the  
22 labor or delivery of the materials or supplies and of the  
23 nonpayment. The notice of nonpayment may be served at any time  
24 during the progress of the work or thereafter but ~~not before~~  
25 ~~45 days after the first furnishing of labor, services, or~~  
26 ~~materials, and~~ not later than 90 days after the final  
27 furnishing of the labor, services, or materials by the  
28 claimant or, with respect to rental equipment, not later than  
29 90 days after the date that the rental equipment was last on  
30 the job site available for use. No action for the labor,  
31 materials, or supplies may be instituted against the

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1 contractor or the surety unless both notices have been given.  
2 Notices required or permitted under this section may be served  
3 in accordance with s. 713.18. An action, except for an action  
4 exclusively for recovery of retainage, must be instituted  
5 against the contractor or the surety on the payment bond or  
6 the payment provisions of a combined payment and performance  
7 bond within 1 year after the performance of the labor or  
8 completion of delivery of the materials or supplies. An action  
9 exclusively for recovery of retainage must be instituted  
10 against the contractor or the surety within 1 year after the  
11 performance of the labor or completion of delivery of the  
12 materials or supplies, or within 90 days after ~~the~~  
13 ~~contractor's~~ receipt of final payment (or the payment estimate  
14 containing the owner's final reconciliation of quantities if  
15 no further payment is earned and due as a result of deductive  
16 adjustments) by the contractor or surety, whichever comes  
17 last. A claimant may not waive in advance his or her right to  
18 bring an action under the bond against the surety. In any  
19 action brought to enforce a claim against a payment bond under  
20 this section, the prevailing party is entitled to recover a  
21 reasonable fee for the services of his or her attorney for  
22 trial and appeal or for arbitration, in an amount to be  
23 determined by the court, which fee must be taxed as part of  
24 the prevailing party's costs, as allowed in equitable actions.  
25 The time periods for service of a notice of nonpayment or for  
26 bringing an action against a contractor or a surety shall be  
27 measured from the last day of furnishing labor, services, or  
28 materials by the claimant and shall not be measured by other  
29 standards, such as the issuance of a certificate of occupancy  
30 or the issuance of a certificate of substantial completion.

31 Section 8. Effective upon this act becoming a law, the

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1 Office of Program Policy Analysis and Government  
2 Accountability (OPPAGA), in consultation with the Legislative  
3 Committee on Intergovernmental Relations, shall:  
4 (1) Conduct a study of construction retainage methods  
5 for public and private construction within the state of  
6 Florida. OPPAGA shall examine all relevant information,  
7 including, but not limited to the following:  
8 (a) Information from various state and local  
9 governmental entities, public universities, and community  
10 colleges within the state of Florida.  
11 (b) Information from the federal government and other  
12 states who have addressed construction payment or retainage  
13 issues, including states that are of comparable size to the  
14 state of Florida or that have a comparable amount of public or  
15 private construction activity as the state of Florida.  
16 (c) Information from public and private owners,  
17 general contractors, subcontractors, material suppliers,  
18 construction managers, design-build professionals, architects,  
19 and engineers.  
20 (d) Information from lenders and surety companies who  
21 are involved in public and private construction.  
22 (2) Draw conclusions and make recommendations, as  
23 appropriate, with regard to the following issues:  
24 (a) Whether the state should adopt new laws or modify  
25 existing laws to address the specific issues set forth below,  
26 and whether any existing statutes will require modification or  
27 repeal.  
28 (b) The positive and negative impacts of the current  
29 systems of retainage being utilized throughout the state as  
30 applied to public sector and private sector construction  
31 contracts, and as between owners and contractors, between

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1 contractors and subcontractors, and between subcontractors and  
2 subcontractor.

3 (c) Whether the traditional 10 percent retainage  
4 practice in construction is equitable and whether there are  
5 viable alternatives to this practice.

6 (d) What may be an appropriate percentage of retainage  
7 to be held on all construction projects.

8 (e) What the purposes of retainage are for  
9 construction projects.

10 (f) Whether it is appropriate to hold all retainage  
11 until the end of a construction project or whether periodic  
12 release of retainage or release of retainage for specific  
13 divisions of work on a construction project is appropriate and  
14 reasonably manageable.

15 (g) What protections are currently in place for owners  
16 to insure that construction projects are progressing in a  
17 satisfactory manner, including, but not limited to, project  
18 management techniques, periodic inspections, services of  
19 project architects and engineers, and whether those  
20 protections are being adequately and properly utilized.

21 (h) What protections are currently in place or could  
22 be adopted for owners, contractors, and subcontractors through  
23 the utilization of construction payment and performance bonds.

24 (i) Whether the documentation required for  
25 construction projects contributes to delays in progress  
26 payments, final payments, and release of retainage; whether  
27 such requirements could be simplified or standardized to  
28 streamline the process; and whether it is appropriate for the  
29 Legislature to address this issue.

30 (j) Whether the Legislature should limit the  
31 percentage of retainage that can be held on public and private

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1 construction projects.

2 (k) Whether the Legislature should provide for  
3 periodic release of retainage on public and private  
4 construction projects.

5 (l) Whether the Legislature should establish  
6 requirements and time limits for owners and contractors to  
7 release final payment and retainage on all construction  
8 projects.

9 (3) OPPAGA shall present a report of its findings and  
10 recommendations to the President of the Senate, the Speaker of  
11 the House of Representatives, minority leaders of the Senate  
12 and House of Representatives, and chairs of the House Business  
13 Regulation & Consumer Affairs Committee and the Senate  
14 Regulated Industries Committee by January 1, 2001.

15 Section 9. Subsections (14) through (26) of section  
16 633.021, Florida Statutes, are renumbered as subsections (15)  
17 through (27), and a new subsection (14) is added to said  
18 section, to read:

19 633.021 Definitions.--As used in this chapter:

20 (14) "Layout" as used in this chapter means the layout  
21 of risers, cross mains, branch lines, sprinkler heads, sizing  
22 of pipe, hanger locations, and hydraulic calculations in  
23 accordance with the design concepts established through the  
24 provisions of s. 553.79(6)(c).

25 Section 10. Subsections (1) and (3) of section  
26 471.025, Florida Statutes, are amended to read:

27 471.025 Seals.--

28 (1) The board shall prescribe, by rule, a form of seal  
29 to be used by registrants holding valid certificates of  
30 registration. Each registrant shall obtain an impression-type  
31 metal seal in the form aforesaid and may, in addition,

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1 register his or her seal electronically in accordance with ss.  
2 282.70-282.75. All final drawings, specifications, plans,  
3 reports, or documents prepared or issued by the registrant and  
4 being filed for public record and all final bid documents  
5 provided to the owner or the owner's representative shall be  
6 signed by the registrant, dated, and stamped with said seal.  
7 Such signature, date, and seal shall be evidence of the  
8 authenticity of that to which they are affixed. Drawings,  
9 specifications, plans, reports, final bid documents, or  
10 documents prepared or issued by a registrant may be  
11 transmitted electronically and may be signed by the  
12 registrant, dated, and stamped electronically with said seal  
13 in accordance with ss. 282.70-282.75.

14 (3) No registrant shall affix or permit to be affixed  
15 his or her seal, name, or digital signature to any plan,  
16 specification, drawing, final bid document, or other document  
17 that ~~which~~ depicts work which he or she is not licensed to  
18 perform or which is beyond his or her profession or specialty  
19 therein.

20 Section 11. Section 468.619, Florida Statutes, is  
21 created to read:

22 468.619 Building code enforcement officials' bill of  
23 rights.--

24 (1) It is the finding of the Legislature that building  
25 code enforcement officials are employed by local jurisdictions  
26 to exercise police powers of the state in the course of their  
27 duties and are in that way similar to law enforcement  
28 personnel, correctional officers, and firefighters. It is the  
29 further finding of the Legislature that building code  
30 enforcement officials are thereby sufficiently distinguishable  
31 from other professionals regulated by the department so that

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1 their circumstances merit additional specific protections in  
2 the course of disciplinary investigations and proceedings  
3 against their licenses.

4 (2) All enforcement officials licensed under this part  
5 shall have the rights and privileges specified in this  
6 section. Such rights are not exclusive to other rights, and an  
7 enforcement official does not forfeit any rights otherwise  
8 held under federal, state, or local law. In any instance of a  
9 conflict between a provision of this section and a provision  
10 of chapter 455, the provision of this section shall supersede  
11 the provision of chapter 455.

12 (3) Whenever an enforcement official is subjected to  
13 an investigative interview for possible disciplinary action by  
14 the department, such interview shall be conducted pursuant to  
15 the requirements of this subsection.

16 (a) The interview shall take place at a reasonable  
17 hour. If the interview is taken in person, it shall take place  
18 not more than 30 miles from where the licensee works, or at  
19 any other mutually agreeable location or time.

20 (b) An enforcement official may not be subjected to an  
21 interview without first receiving written notice of sufficient  
22 details of the complaint in order to be reasonably apprised of  
23 the nature of the investigation and of the substance of the  
24 allegations made. The enforcement official shall be informed  
25 prior to the interview whether the complaint originated from  
26 the department or from a consumer.

27 (c) At his or her request, an enforcement official  
28 under investigation shall have the right to be represented by  
29 counsel or by any other representative of his or her choice,  
30 who shall be present at such time as the enforcement official  
31 wishes during the interview.

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1       (d) During the interview, the enforcement official may  
2 not be subjected to offensive language. No promise may be made  
3 or reward offered to the enforcement official as an inducement  
4 to answer any question.

5       (e) If requested by the enforcement official, the  
6 interview of an enforcement official, including notation of  
7 all recess periods, must be recorded on audio tape, or  
8 otherwise preserved in such a manner as to allow a transcript  
9 to be prepared, and there shall be no unrecorded questions or  
10 statements. Upon the request of the enforcement official, a  
11 copy of any such recording of the interview must be made  
12 available to the enforcement official no later than 72 hours  
13 following the interview, excluding holidays and weekends. The  
14 expense of the recording and transcript shall be borne by the  
15 enforcement official.

16       (f) If the testimony is transcribed, the transcript  
17 must be furnished to the enforcement official for examination,  
18 and shall be read to or by the enforcement official, unless  
19 waived by all parties involved. Any changes in form or  
20 substance that the enforcement official wants to make shall be  
21 listed in writing, with a statement of the reasons for making  
22 the changes. The changes shall be attached to the transcript.  
23 Any transcript of an interview with an enforcement official  
24 which is to be used in any proceeding against the enforcement  
25 official shall be sworn or affirmed to and acknowledged by the  
26 enforcement official.

27       (4) The investigation of a complaint against an  
28 enforcement official is subject to the time restrictions set  
29 forth in this subsection, and failure to comply with any time  
30 restriction set forth in this subsection shall result in  
31 dismissal of the complaint against the enforcement official.

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1 An investigation of a complaint against an enforcement  
2 official that was dismissed for failure to comply with a time  
3 restriction set forth in this subsection may not be reopened.  
4 However, in any instance of an additional complaint being  
5 initiated, information or investigation related to the  
6 dismissed complaint may be used.

7 (a) The department must inform the enforcement  
8 official of any legally sufficient complaint received,  
9 including the substance of the allegation, within 10 days  
10 after receipt of the complaint by the department.

11 (b) The enforcement official shall be given thirty  
12 (30) days to respond to any legally sufficient complaint.

13 (c) No longer than 180 days from the date of the  
14 receipt of the complaint, the department shall submit the  
15 investigation, whether complete or not, to the probable cause  
16 panel for review. In the event the investigation is not  
17 complete, the probable cause panel shall review and instruct  
18 the department to complete the investigation within a time  
19 certain and, in no event, greater than ninety (90) days or  
20 dismiss the complaint with prejudice.

21 (5) The enforcement official shall be considered an  
22 agent of the governmental entity employing him or her and as  
23 such shall be defended by that entity in any action brought by  
24 the department or the board, provided the enforcement official  
25 is working within the scope of his or her employment.

26 (6) An enforcement official shall not be subject to  
27 disciplinary action in regard to his or her certification for  
28 exercising his or her rights under this section.

29 (7) If any action taken against the enforcement  
30 official by the department or the board is found to be without  
31 merit by a court of competent jurisdiction, or if judgment in

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1 such an action is awarded to the enforcement official, the  
2 department or the board, or the assignee of the department or  
3 board, shall reimburse the enforcement official or his or her  
4 employer, as appropriate, for reasonable legal costs and  
5 reasonable attorney's fees incurred. The amount awarded shall  
6 not exceed the limit provided in s. 120.595.

7 (8) An enforcement official may bring civil suit  
8 against any person, group of persons, or organization or  
9 corporation, or the head of such organization or corporation,  
10 for damages, either pecuniary or otherwise, suffered pursuant  
11 to the performance of the enforcement official's duties or for  
12 abridgement of the enforcement official's civil rights arising  
13 out of the enforcement official's performance of official  
14 duties.

15 (9) Notwithstanding any other provision in law, while  
16 under investigation the enforcement official shall not be  
17 denied any and all the rights and privileges of a licensee in  
18 good standing.

19 Section 12. Section 489.507, Florida Statutes, is  
20 amended to read:

21 489.507 Electrical Contractors' Licensing Board.--

22 (1) There is created in the department the Electrical  
23 Contractors' Licensing Board. The board shall consist of 11  
24 members, 7 of whom shall be certified electrical contractors,  
25 2 of whom shall be consumer members who are not, and have  
26 never been, electrical contractors or members of any closely  
27 related profession or occupation, and 2 of whom shall be  
28 certified alarm system contractors I. Members shall be  
29 appointed for 4-year terms.

30 (2) To be eligible to serve, each contractor member  
31 must have been certified by the board to operate as a

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1 contractor in the category with respect to which the member is  
2 appointed, be actively engaged in the construction business,  
3 and have been so engaged for a period of not less than 5  
4 consecutive years before the date of appointment. Each  
5 appointee must be a citizen and resident of the state.

6 (3) The board has authority to adopt rules pursuant to  
7 ss. 120.536(1) and 120.54 to implement the provisions of this  
8 part.

9 (4) It is the intent of the Legislature that the board  
10 promulgate no rules and take no action to require that  
11 applicants for certification as alarm system contractors serve  
12 any type of apprenticeship before being allowed to sit for the  
13 certification examination.

14 (5) Any proposed board rule which has not been  
15 modified to remove proposed committee objections of the  
16 Administrative Procedures Committee must receive approval from  
17 the department prior to filing the rule with the Department of  
18 State for final adoption. The department may repeal any rule  
19 enacted by the board which has taken effect without having met  
20 proposed committee objections of the Administrative Procedures  
21 Committee.

22 (6)(5) The Electrical Contractors' Licensing Board and  
23 the Construction Industry Licensing Board shall each appoint a  
24 committee to meet jointly at least twice a year.

25  
26  
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 On page 1, line 2 after the semicolon

30

31 insert:

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1 amending s. 218.72, F.S.; redefining the terms  
2 "local government entity," "purchase," and  
3 "construction services" and defining the terms  
4 "payment request" and "agent" for the purpose  
5 of the Florida Prompt Payment Act; amending s.  
6 218.73, F.S.; providing for timely payment for  
7 nonconstruction services; amending s. 218.735,  
8 F.S.; revising language with respect to timely  
9 payment for purchases of construction services;  
10 amending s. 218.74, F.S.; revising language  
11 with respect to procedures for calculation of  
12 payment due dates; amending s. 218.75, F.S.;  
13 revising language with respect to mandatory  
14 interest; amending s. 218.76, F.S.; revising  
15 language with respect to improper invoices and  
16 resolution of disputes; providing for the  
17 recovery of court costs and attorney's fees  
18 under certain circumstances; amending s.  
19 255.05, F.S.; revising language with respect to  
20 the bond of a contractor constructing public  
21 buildings; requiring the Office of Program  
22 Policy Analysis and Government Accountability,  
23 in consultation with the Legislative Committee  
24 on Intergovernmental Relations, to conduct a  
25 study of construction retainage methods;  
26 specifying areas to be examined; requiring  
27 study conclusions and recommendations; amending  
28 s. 633.021, F.S.; adding a definition of  
29 "layout"; amending s. 471.025, F.S.; adding a  
30 circumstance under which engineering documents  
31 must be sealed; creating 468.619, F.S.;

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providing additional due process controls  
regarding disciplining building code  
enforcement officials; amending s. 489.507,  
F.S.; limiting the rulemaking authority of the  
Electrical Contractors' Licensing Board;