

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Smith offered the following:

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Amendment (with title amendment)

13

Remove everything after the enacting clause

15

and insert:

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Section 1. Subsection (9) is added to section 199.185, Florida Statutes, to read:

17

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199.185 Property exempted from annual and non-recurring taxes.--

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(9)(a) Mortgages and liens recorded to secure the performance of an indemnitor to a surety by insurance companies licensed in the State of Florida that issue surety are exempt from this chapter at the time of recording the mortgage or lien. The clerk of the court shall accept such recordings at the time of submittal and such mortgage or lien shall have a priority as of the date of recording over any subsequent filings by other parties notwithstanding that the enforcement of the recorded mortgage or lien on the indemnity may come subsequent to the later recording and any action against the indemnitor affecting said mortgage or lien shall

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1 provide notice to the insurance company.

2 (b) Upon exercise of the rights under the mortgage or
3 lien, all applicable taxes due pursuant to this chapter shall
4 become due and payable as if the mortgage or lien were
5 initially executed and recorded without this exemption.

6 (c) Failure to pay tax at time of exercise shall not
7 affect the mortgage or lien, but any person who willfully
8 violates or fails to comply with this subsection is subject to
9 the penalties set forth in s. 199.282.

10 Section 2. Subsection (5) is added to section 201.23,
11 Florida Statutes, to read:

12 201.23 Foreign notes and other written obligations
13 exempt.--

14 (5) Mortgages and liens recorded to secure the
15 performance of an indemnitor to a surety by insurance
16 companies licensed in this state which issue surety are exempt
17 from this chapter at the time of recording the mortgage or
18 lien. The clerk of the court shall accept such recordings at
19 the time of submittal, and such mortgage or lien shall have a
20 priority as of the date of recording over any subsequent
21 filings by other parties, notwithstanding that the enforcement
22 of the recorded mortgage or lien on the indemnity may occur
23 after the later recording and any action against the
24 indemnitor affecting the mortgage or lien provides notice to
25 the insurance company. Upon exercise of the rights under the
26 mortgage or lien, all applicable taxes due pursuant to this
27 chapter shall become due and payable as if the mortgage or
28 lien were initially executed and recorded without this
29 exception. Failure to pay any tax at time of exercise shall
30 not affect the mortgage or lien, but any person who willfully
31 fails or refuses to pay tax due under this subsection commits

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1 a misdemeanor of the first degree, punishable as provided in
2 s. 775.082 or s. 775.083.

3 Section 3. Section 210.08, Florida Statutes, is
4 amended to read:

5 210.08 Bond for payment of taxes.--Each dealer, agent,
6 or distributing agent shall file with the division a surety
7 bond, certificate of deposit, or irrevocable letter of credit
8 acceptable to the division in the sum of \$10,000 as surety for
9 the payment of all taxes; provided, however, that where in the
10 discretion of the division the amount of business done by the
11 dealer, agent, or distributing agent is of such volume that a
12 bond, certificate of deposit, or irrevocable letter of credit
13 of less than \$10,000 will be adequate to secure the payment of
14 all taxes assessed as authorized by the cigarette tax law, the
15 division may accept a bond, certificate of deposit, or
16 irrevocable letter of credit in a lesser sum than \$10,000, but
17 in no event shall it accept a bond, certificate of deposit, or
18 irrevocable letter of credit of less than \$1,000, and it may
19 at any time in its discretion require any bond, certificate of
20 deposit, or irrevocable letter of credit in an amount less
21 than \$10,000 to be increased not to exceed \$10,000.

22 Section 4. Subsection (3) of section 255.05, Florida
23 Statutes, is amended to read:

24 255.05 Bond of contractor constructing public
25 buildings; form; action by materialmen.--

26 (3) The bond required in subsection (1) shall be in
27 the following form, and any deviation of the bond required by
28 the public owner or furnished by the contractor shall be
29 disregarded ~~may be in substantially the following form:~~

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PUBLIC CONSTRUCTION BOND

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2 BY THIS BOND, We{enter name principal business
3 address, and telephone number of contractor}, as Principal and
4 {enter name, principal business address, and telephone number
5 of surety}...., a corporation, authorized to do business in
6 Florida as a surety insurer,as Surety, are bound to
7 {enter name, principal business address, and telephone number
8 of public owner}, herein called Owner, in the sum of
9 \$....{enter contract amount as penal sum of bond}, for payment
10 of which we bind ourselves, our heirs, personal
11 representatives, successors, and assigns, jointly and
12 severally.

13
14 WHEREAS, Principal has entered into a contract with
15 Owner for{enter description of project sufficient to
16 identify it such as a legal description of property, the
17 street address of property, and a general description of the
18 improvement to be constructed}, which is Owner's Contract No.
19{enter contract number} belonging to{enter name,
20 principal business address, and telephone number of owner of
21 property if different from the contract public entity}
22 (hereinafter the Project); and

23
24 WHEREAS, this Bond is given to meet the requirements of
25 Section 255.05, Florida Statutes, which shall control the
26 respective rights and obligations of the Principal, Surety,
27 Owner, and any claimant.

28
29 NOW, THEREFORE, THE CONDITION OF THIS BOND is that if
30 Principal:

- 31 1. Performs the contract dated,, {enter date

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1 of contract}between Principal and Owner for construction of
2 the Project...., the contract being made a part of this bond
3 by reference, at the times and in the manner prescribed in the
4 contract; and

5 2. Promptly makes payments to all claimants, as
6 defined in Section 255.05(1), Florida Statutes, supplying
7 Principal with labor, materials, or supplies, used directly or
8 indirectly by Principal in the prosecution of the work
9 provided for in the contract; and

10 3. Pays Owner all losses, damages, expenses, costs,
11 and attorney's fees, including appellate proceedings, that
12 Owner sustains because of a default by Principal under the
13 contract; and

14 4. Performs the guarantee of all work and materials
15 furnished under the contract for the time specified in the
16 contract, then this bond is void; otherwise it remains in full
17 force.

18 Any changes in or under the contract documents and
19 compliance or noncompliance with any formalities connected
20 with the contract or the changes does not affect Surety's
21 obligation under this bond.
22

23 DATED ON,

24 ...(Date of Bond)...

25 ...(Name of Principal)...

26 By ...(As Authorized Attorney in Fact)...

27 ...(Name of Surety)...
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29 Section 5. Subsection (3) of section 713.24, Florida
30 Statutes, is amended to read:

31 713.24 Transfer of liens to security.--

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1 (3) Any party having an interest in such security or
2 the property from which the lien was transferred may at any
3 time, and any number of times, file a complaint in chancery in
4 the circuit court of the county where such security is
5 deposited, or file a motion in a pending action to enforce a
6 lien, for an order to require additional security, reduction
7 of security, change or substitution of sureties, payment of
8 discharge thereof, or any other matter affecting the said
9 security. If the court finds that the amount of the deposit or
10 bond in excess of the amount claimed in the claim of lien is
11 insufficient to pay the lienor's attorney's fees and court
12 costs incurred in the action to enforce the lien, the court
13 must increase the amount of the cash deposit or lien transfer
14 bond. However, the surety has no liability in excess of the
15 lien transfer bond filed with the clerk unless it provides a
16 new or amended bond.

17 Section 6. This act shall take effect July 1, 2002.

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20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 remove: the entire title

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24 and insert:

25 A bill to be entitled

26 An act relating to sureties; amending ss.

27 199.185, 201.23, F.S.; exempting mortgages and

28 liens recorded to secure performance of an

29 indemnitor to a surety from the intangible

30 personal property tax and the excise tax on

31 documents at time of recording; providing that

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1 those taxes become due upon exercise of rights
2 under the mortgage or lien; providing that
3 failure to pay intangibles tax is subject to
4 criminal penalties in s. 199.282, F.S.;
5 providing that failure to pay excise taxes when
6 due is a first degree misdemeanor; amending s.
7 210.08, F.S.; providing methods other than a
8 bond for dealers, agents, or distributing
9 agents to guarantee tax payment to the Division
10 of Alcoholic Beverages and Tobacco of the
11 Department of Business and Professional
12 Regulation; amending s. 255.05, F.S.; requiring
13 public construction bonds to be the same as the
14 statutory form; revising the statutory form;
15 amending s. 713.24, F.S.; providing that
16 sureties have no liability in excess of a lien
17 transfer bond; providing an exception;
18 providing an effective date.

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