

By Senator Geller

29-1569-02

1 A bill to be entitled
 2 An act relating to sureties; amending s.
 3 210.08, F.S.; revising certain security
 4 requirements for tobacco dealers; amending s.
 5 255.05, F.S.; requiring that a construction
 6 bond conform to a specified form; amending s.
 7 713.135, F.S.; increasing the exemption amount
 8 for filing a notice of commencement; amending
 9 s. 713.24, F.S.; exempting sureties from
 10 excess-liability judgments on certain bonds;
 11 providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

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 15 Section 1. Section 210.08, Florida Statutes, is
 16 amended to read:

17 210.08 Bond for payment of taxes.--Each dealer, agent
 18 or distributing agent shall file with the division a surety
 19 bond, certificate of deposit, or irrevocable letter of credit
 20 acceptable to the division in the sum of \$10,000 as surety for
 21 the payment of all taxes; provided, however, that where in the
 22 discretion of the division the amount of business done by the
 23 dealer, agent or distributing agent is of such volume that a
 24 bond of less than \$10,000 will be adequate to secure the
 25 payment of all taxes assessed as authorized by the cigarette
 26 tax law, the division may accept a bond, certificate of
 27 deposit, or line or letter of credit in a lesser sum than
 28 \$10,000, but in no event shall it accept such security in an
 29 amount ~~a bond of~~ less than \$1,000, and it may at any time in
 30 its discretion require any such security ~~bond~~ in an amount
 31 less than \$10,000 to be increased not to exceed \$10,000.

1 Section 2. Subsection (3) of section 255.05, Florida
2 Statutes, is amended to read:

3 255.05 Bond of contractor constructing public
4 buildings; form; action by materialmen.--

5 (3) The bond required in subsection (1) must ~~may~~ be in
6 substantially the following form:

7
8 PUBLIC CONSTRUCTION BOND
9

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

15 THE CONDITION OF THIS BOND is that if Principal:

16 1. Performs the contract dated,, between
17 Principal and Owner for construction of, the contract
18 being made a part of this bond by reference, at the times and
19 in the manner prescribed in the contract; and

20 2. Promptly makes payments to all claimants, as
21 defined in Section 255.05(1), Florida Statutes, supplying
22 Principal with labor, materials, or supplies, used directly or
23 indirectly by Principal in the prosecution of the work
24 provided for in the contract; and

25 3. Pays Owner all losses, damages, expenses, costs,
26 and attorney's fees, including appellate proceedings, that
27 Owner sustains because of a default by Principal under the
28 contract; and

29 4. Performs the guarantee of all work and materials
30 furnished under the contract for the time specified in the
31

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

3 Any changes in or under the contract documents and
4 compliance or noncompliance with any formalities connected
5 with the contract or the changes does not affect Surety's
6 obligation under this bond.

7
8 DATED ON,

9 ... (Name of Principal) ...
10 By ... (As Attorney in Fact) ...
11 ... (Name of Surety) ...
12

13 Section 3. Paragraph (d) of subsection (1) of section
14 713.135, Florida Statutes, is amended to read:

15 713.135 Notice of commencement and applicability of
16 lien.--

17 (1) When any person applies for a building permit, the
18 authority issuing such permit shall:

19 (d) Furnish to the applicant two or more copies of a
20 form of notice of commencement conforming with s. 713.13. If
21 the direct contract is greater than \$5,000~~\$2,500~~, the
22 applicant shall file with the issuing authority prior to the
23 first inspection either a certified copy of the recorded
24 notice of commencement or a notarized statement that the
25 notice of commencement has been filed for recording, along
26 with a copy thereof. In the absence of the filing of a
27 certified copy of the recorded notice of commencement, the
28 issuing authority shall not perform or approve subsequent
29 inspections until the applicant files by mail, facsimile, hand
30 delivery, or any other means such certified copy with the
31 issuing authority. The certified copy of the notice of

1 commencement must contain the name and address of the owner,
2 the name and address of the contractor, and the location or
3 address of the property being improved. The issuing authority
4 shall verify that the name and address of the owner, the name
5 of the contractor, and the location or address of the property
6 being improved which is contained in the certified copy of the
7 notice of commencement is consistent with the information in
8 the building permit application. The issuing authority shall
9 provide the recording information on the certified copy of the
10 recorded notice of commencement to any person upon request.
11 This subsection does not require the recording of a notice of
12 commencement prior to the issuance of a building permit. If a
13 local government requires a separate permit or inspection for
14 installation of temporary electrical service or other
15 temporary utility service, land clearing, or other preliminary
16 site work, such permits may be issued and such inspections may
17 be conducted without providing the issuing authority with a
18 certified copy of a recorded notice of commencement or a
19 notarized statement regarding a recorded notice of
20 commencement. This subsection does not apply to a direct
21 contract to repair or replace an existing heating or
22 air-conditioning system in an amount less than \$5,000.

23 Section 4. Subsection (3) of section 713.24, Florida
24 Statutes, is amended to read:

25 713.24 Transfer of liens to security.--

26 (3) Any party having an interest in such security or
27 the property from which the lien was transferred may at any
28 time, and any number of times, file a complaint in chancery in
29 the circuit court of the county where such security is
30 deposited, or file a motion in a pending action to enforce a
31 lien, for an order to require additional security, reduction

1 of security, change or substitution of sureties, payment of
2 discharge thereof, or any other matter affecting the said
3 security. If the court finds that the amount of the deposit or
4 bond in excess of the amount claimed in the claim of lien is
5 insufficient to pay the lienor's attorney's fees and court
6 costs incurred in the action to enforce the lien, the court
7 must increase the amount of the cash deposit or lien transfer
8 bond. However, the surety has no liability in excess of the
9 lien transfer bond filed with the clerk unless it provides a
10 new or amended bond.

11 Section 5. This act shall take effect July 1, 2002.

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SENATE SUMMARY

Revises provisions relating to sureties. (See bill for details.)