

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:

Amendment (with title amendment)

On page 1, line 11,

insert:

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

199.185 Property exempted from annual and nonrecurring taxes.--

(9)(a) Notes, bonds, or other obligations secured by mortgages or liens given to secure the performance of an indemnitor in an amount less than \$2 million to a surety by insurance companies licensed in this state when such surety is issued for the following purposes:

- 1. Construction bid bonds,
- 2. Construction performance bonds,
- 3. Construction payment bonds,
- 4. Construction licenses,
- 5. Permits,
- 6. Court bonds, or

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1 7. Bail bonds
2
3 are exempt from the tax imposed under this chapter at the time
4 of recording the mortgage, deed of trust, or lien. The clerk
5 of the court shall accept such recordings at the time of
6 submittal and such mortgage or lien shall have a priority as
7 of the date of recording over any subsequent filings by other
8 parties notwithstanding that the enforcement of the recorded
9 mortgage or lien on the indemnity may come subsequent to the
10 later recording and any action against the indemnitor
11 affecting said mortgage or lien shall provide notice to the
12 insurance company.

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

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

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

23 201.23 Foreign notes and other written obligations
24 exempt.--

25 (5)(a) Mortgages, trust deeds, liens, or security
26 agreements filed or recorded to secure the performance of an
27 indemnitor to a surety in an amount less than \$2 million by
28 insurance companies licensed in this state when such surety is
29 issued for the following purposes:

- 30 1. Construction bid bonds,
31 2. Construction performance bonds,

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- 1 3. Construction payment bonds,
- 2 4. Construction licenses,
- 3 5. Permits,
- 4 6. Court bonds, or
- 5 7. Bail bonds

6

7 are exempt from the tax imposed under this chapter at the time
 8 of recording the mortgage or lien. The clerk of the court
 9 shall accept such recordings at the time of submittal and such
 10 mortgage or lien shall have a priority as of the date of
 11 recording over any subsequent filings by other parties
 12 notwithstanding that the enforcement of the recorded mortgage
 13 or lien on the indemnity may occur after the later recording
 14 and any action against the indemnitor affecting said mortgage
 15 or provides notice to the insurance company.

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

20 (c) Failure to pay any tax at time of exercise shall
 21 result in the penalties set forth in this chapter for failure
 22 to pay the tax.

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

25 210.08 Bond for payment of taxes.--Each dealer, agent,
 26 or distributing agent shall file with the division a surety
 27 bond, certificate of deposit, or irrevocable letter of credit
 28 acceptable to the division in the sum of \$10,000 as surety for
 29 the payment of all taxes; provided, however, that where in the
 30 discretion of the division the amount of business done by the
 31 dealer, agent, or distributing agent is of such volume that a

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1 bond, certificate of deposit, or irrevocable letter of credit
 2 of less than \$10,000 will be adequate to secure the payment of
 3 all taxes assessed as authorized by the cigarette tax law, the
 4 division may accept a bond, certificate of deposit, or
 5 irrevocable letter of credit in a lesser sum than \$10,000, but
 6 in no event shall it accept a bond, certificate of deposit, or
 7 irrevocable letter of credit of less than \$1,000, and it may
 8 at any time in its discretion require any bond, certificate of
 9 deposit, or irrevocable letter of credit in an amount less
 10 than \$10,000 to be increased not to exceed \$10,000.

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

13 255.05 Bond of contractor constructing public
 14 buildings; form; action by materialmen.--

15 (3) The bond required in subsection (1) shall be in
 16 the following form, and any deviation of the bond required by
 17 the public owner or furnished by the contractor shall be
 18 disregarded ~~may be in substantially the following form:~~

19
 20 PUBLIC CONSTRUCTION BOND

21
 22 BY THIS BOND, We{enter name principal business
 23 address, and telephone number of contractor}, as Principal and
 24 {enter name, principal business address, and telephone number
 25 of surety}...., a corporation, authorized to do business in
 26 Florida as a surety insurer,as Surety, are bound to
 27 {enter name, principal business address, and telephone number
 28 of public owner}, herein called Owner, in the sum of
 29 \$....{enter contract amount as penal sum of bond}, for payment
 30 of which we bind ourselves, our heirs, personal
 31 representatives, successors, and assigns, jointly and

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1 severally.

2

3 WHEREAS, Principal has entered into a contract with
4 Owner for{enter description of project sufficient to
5 identify it such as a legal description of property, the
6 street address of property, and a general description of the
7 improvement to be constructed}, which is Owner's Contract No.
8{enter contract number} belonging to{enter name,
9 principal business address, and telephone number of owner of
10 property if different from the contract public entity}
11 (hereinafter the Project); and

12

13 WHEREAS, this Bond is given to meet the requirements of
14 Section 255.05, Florida Statutes, which shall control the
15 respective rights and obligations of the Principal, Surety,
16 Owner, and any claimant.

17

18 NOW, THEREFORE, THE CONDITION OF THIS BOND is that if
19 Principal:

20 1. Performs the contract dated,, {enter date
21 of contract} between Principal and Owner for construction of
22 the Project....., the contract being made a part of this bond
23 by reference, at the times and in the manner prescribed in the
24 contract; and

25 2. Promptly makes payments to all claimants, as
26 defined in Section 255.05(1), Florida Statutes, supplying
27 Principal with labor, materials, or supplies, used directly or
28 indirectly by Principal in the prosecution of the work
29 provided for in the contract; and

30 3. Pays Owner all losses, damages, expenses, costs,
31 and attorney's fees, including appellate proceedings, that

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1 Owner sustains because of a default by Principal under the
2 contract; and

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

7 Any changes in or under the contract documents and
8 compliance or noncompliance with any formalities connected
9 with the contract or the changes does not affect Surety's
10 obligation under this bond.

11

12 DATED ON,

13 ...(Date of Bond)...

14 ...(Name of Principal)...

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

16 ...(Name of Surety)...

17

18 Section 5. Subsection (3) of section 713.24, Florida
19 Statutes, is amended to read:

20 713.24 Transfer of liens to security.--

21 (3) Any party having an interest in such security or
22 the property from which the lien was transferred may at any
23 time, and any number of times, file a complaint in chancery in
24 the circuit court of the county where such security is
25 deposited, or file a motion in a pending action to enforce a
26 lien, for an order to require additional security, reduction
27 of security, change or substitution of sureties, payment of
28 discharge thereof, or any other matter affecting the said
29 security. If the court finds that the amount of the deposit or
30 bond in excess of the amount claimed in the claim of lien is
31 insufficient to pay the lienor's attorney's fees and court

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1 costs incurred in the action to enforce the lien, the court
2 must increase the amount of the cash deposit or lien transfer
3 bond. However, the surety has no liability in excess of the
4 lien transfer bond filed with the clerk unless it provides a
5 new or amended bond.

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7

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

9 And the title is amended as follows:

10 On page 1, lines 2 & 3,
11 remove: all of said lines

12

13 and insert:

14 An act relating to sureties; amending ss.
15 199.185, 201.23, F.S.; exempting certain
16 mortgages and liens from the intangible
17 personal property tax and the excise tax on
18 documents at time of recording; providing that
19 those taxes become due upon exercise of rights
20 under the mortgage or lien; providing penalties
21 for failure to pay those taxes when due;
22 amending s. 210.08, F.S.; providing methods
23 other than a bond for dealers, agents, or
24 distributing agents to guarantee tax payment to
25 the Division of Alcoholic Beverages and Tobacco
26 of the Department of Business and Professional
27 Regulation; amending s. 255.05, F.S.; requiring
28 public construction bonds to be the same as the
29 statutory form; revising the statutory form;
30 amending s. 713.24, F.S.; providing that
31 sureties have no liability in excess of a lien

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transfer bond; providing an exception; amending
ss. 255.05, and 287.057, F.S.;