



HB 1385

2003

1 A bill to be entitled

2 An act relating to public contracts; creating s. 287.0575,
3 F.S.; creating a fiduciary responsibility under certain
4 contracts; requiring certain contractors to exercise
5 oversight responsibilities over subcontractors; specifying
6 responsibility for certain subcontractor failures to
7 perform; specifying negligence under certain
8 circumstances; providing a penalty; providing a defense
9 under certain circumstances; creating s. 287.0576, F.S.;
10 specifying certain unlawful activities in certain public
11 project bid solicitations; providing a penalty; providing
12 an effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Section 287.0575, Florida Statutes, is created
17 to read:

18 287.0575 Contractor's fiduciary responsibilities under
19 procurement contracts; penalty.--

20 (1) Any person who enters into a formal contract with a
21 public entity, as provided in this section, creates a fiduciary
22 responsibility to the public entity. If such person contracts
23 with any subcontractor under the contract, such person shall
24 exercise oversight responsibility over such subcontractor and is
25 responsible under the contract to the public entity for any
26 failure in performance of a subcontractor under the subcontract.

27 (2) A person who fails to exercise oversight
28 responsibility over a subcontractor as provided in subsection
29 (1) is negligent if the public entity suffers a financial loss
30 in excess of \$1,000 and commits a misdemeanor of the first



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31 degree, punishable as provided in s. 775.082 or s. 775.083. It
 32 is an affirmative defense to such offense if such person pays
 33 restitution to the public entity in the full amount of the
 34 financial loss prior to the filing of any formal charges by the
 35 public entity to enforce provisions of the contract.

36 Section 2. Section 287.0576, Florida Statutes, is created
 37 to read:

38 287.0576. Bid rigging prohibition; penalty.--

39 (1) It is unlawful, whenever soliciting a bid for a
 40 procurement contract under this chapter or a contract subject to
 41 the requirements of s. 255.05:

42 (a) To disclose information about the project to any
 43 person who may submit a bid on the project unless the same
 44 information is disclosed to all persons who may submit a bid on
 45 the project.

46 (b) For two or more persons to enter into an agreement in
 47 which one or more such persons under the agreement agrees not to
 48 bid on the project or submit a bid higher or lower than any
 49 other person under the agreement.

50 (2) Any person who violates any provision of subsection
 51 (1) commits a felony of the third degree, punishable as provided
 52 in s. 775.082, s. 775.083, or s. 775.084.

53 Section 3. This act shall take effect upon becoming a law.