

By the Committees on Governmental Oversight and Productivity;  
Comprehensive Planning; and Senator Bennett

302-2511-03

1                                   A bill to be entitled  
2           An act relating to prompt payment for  
3           construction services; amending s. 218.70,  
4           F.S.; providing a short title; amending s.  
5           218.72, F.S.; redefining terms used in part VII  
6           of ch. 218, F.S.; amending s. 218.735, F.S.;  
7           revising provisions relating to timely payment  
8           for purchases of construction services;  
9           revising deadlines for payment; providing  
10          procedures for project closeout and payment of  
11          retainage; providing requirements for local  
12          government construction retainage; providing  
13          that ss. 218.72-218.76, F.S., apply to the  
14          payment of any payment request for retainage;  
15          creating s. 255.0705, F.S.; providing a short  
16          title; amending s. 255.071, F.S.; revising  
17          deadlines for the payment of subcontractors,  
18          sub-subcontractors, materialmen, and suppliers  
19          on construction contracts for public projects;  
20          creating ss. 255.072, 255.073, 255.074,  
21          255.075, 255.076, 255.077, 255.078, F.S.;  
22          providing definitions; providing for timely  
23          payment for purchases of construction services  
24          by a public entity; providing procedures for  
25          calculating payment due dates; providing  
26          procedures for handling improper payment  
27          requests; providing for the resolution of  
28          disputes; providing for project closeout and  
29          payment of retainage; providing for  
30          public-construction retainage; providing that  
31          ss. 255.072-255.076, F.S., apply to the payment

1 of any payment request for retainage; amending  
2 s. 255.05, F.S.; providing requirements for  
3 certain notices of nonpayment served by a  
4 claimant who is not in privity with the  
5 contractor; providing limitations on a  
6 claimant's institution of certain actions  
7 against a contractor or surety; providing for  
8 certain notices to the claimant; providing an  
9 effective date.

10

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

12

13 Section 1. Section 218.70, Florida Statutes, is  
14 amended to read:

15 218.70 Popular name ~~Short title~~.--This part may be  
16 cited as the "Local Government Florida Prompt Payment Act."

17 Section 2. Subsections (2), (6), and (7) of section  
18 218.72, Florida Statutes, are amended to read:

19 218.72 Definitions.--As used in this part:

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

26 (6) "Vendor" means any person who sells goods or  
27 services, sells or leases personal property, or leases real  
28 property directly to a local government entity.

29 (7) "Construction services" means all labor, services,  
30 and materials provided in connection with the construction,  
31 alteration, repair, demolition, reconstruction, or any other

1 improvements to real property ~~that require a license under~~  
2 ~~parts I and II of chapter 489.~~

3 Section 3. Subsection (6) of section 218.735, Florida  
4 Statutes, is amended, present subsection (7) of that section  
5 is redesignated as subsection (9), and new subsections (7) and  
6 (8) are added to that section, to read:

7 218.735 Timely payment for purchases of construction  
8 services.--

9 (6) When a contractor receives payment from a local  
10 governmental entity for labor, services, or materials  
11 furnished by subcontractors and suppliers hired by the  
12 contractor, the contractor shall remit payment due to those  
13 subcontractors and suppliers within 10 ~~15~~ days after the  
14 contractor's receipt of payment. When a subcontractor receives  
15 payment from a contractor for labor, services, or materials  
16 furnished by subcontractors and suppliers hired by the  
17 subcontractor, the subcontractor shall remit payment due to  
18 those subcontractors and suppliers within 10 ~~15~~ days after the  
19 subcontractor's receipt of payment. Nothing herein shall  
20 prohibit a contractor or subcontractor from disputing,  
21 pursuant to the terms of the relevant contract, all or any  
22 portion of a payment alleged to be due to another party. In  
23 the event of such a dispute, the contractor or subcontractor  
24 may withhold the disputed portion of any such payment if the  
25 contractor or subcontractor notifies the party whose payment  
26 is disputed, in writing, of the amount in dispute and the  
27 actions required to cure the dispute. The contractor or  
28 subcontractor must pay all undisputed amounts due within the  
29 time limits imposed by this section.

30 (7)(a) Each contract for construction services between  
31 a local government entity and vendor must provide for the

1 development of a list of items required to render complete,  
2 satisfactory, and acceptable the construction services  
3 purchased by the local government. The contract must specify  
4 the process for the development of the list, including  
5 responsibilities of the local government and vendor in  
6 developing and reviewing the list and a reasonable time for  
7 developing such list as follows:

8       1. For construction projects with an estimated cost  
9 less than \$10 million, within 30 days after reaching  
10 substantial completion of the construction services purchased  
11 as defined in the contract, or, if not defined in the  
12 contract, upon reaching beneficial occupancy or use; or

13       2. For construction projects with an estimated cost of  
14 \$10 million or more, within 30 days, unless otherwise extended  
15 by contract not to exceed 90 days, after reaching substantial  
16 completion of the construction services purchased as defined  
17 in the contract, or, if not defined in the contract, upon  
18 reaching beneficial occupancy or use.

19       (b) If the contract between the local government  
20 entity and vendor relates to the purchase of construction  
21 services on more than one building or structure, or involves a  
22 multiphased project, the contract shall provide for the  
23 development of a list of items required to render complete,  
24 satisfactory, and acceptable the construction services  
25 purchased for each building, structure, or phase of the  
26 project in accordance with the timeframes specified in  
27 subparagraph (a)1. or subparagraph (a)2.

28       (c) The failure to include any corrective work or  
29 pending items not yet completed on the list developed pursuant  
30 to this subsection shall not alter the responsibility of the  
31

1 vendor to complete all the purchased construction services as  
2 defined in the contract.

3 (d) Upon completion of all items on the list, or such  
4 other time defined in the contract, the vendor may submit a  
5 payment request for the appropriate amount of retainage. The  
6 local government may withhold an amount not to exceed 150  
7 percent of the total costs to complete any incomplete items on  
8 the list.

9 (e) All items that require correction under the  
10 contract and that are identified after the preparation and  
11 delivery of the list shall remain the obligation of the vendor  
12 as defined by the contract.

13 (f) Warranty items may not affect the final payment of  
14 retainage as provided in this section or as may be provided in  
15 the contract between the vendor and its subcontractors and  
16 suppliers.

17 (g) If a local government entity fails to comply with  
18 its responsibilities to develop the list required under  
19 paragraph (a) or paragraph (b), as defined in the contract,  
20 and the timeframes provided in subparagraph (a)1. or  
21 subparagraph (a)2., the vendor may submit a payment request  
22 for the appropriate amount of retainage. The local government  
23 entity shall not be required to pay or process any request for  
24 payment of retainage if the vendor has, in whole or in part,  
25 failed to cooperate with the local government in the  
26 development of the list; failed to perform its contractual  
27 responsibilities, if any, with regard to the development of  
28 the list; or if paragraph (8)(d) applies.

29 (8)(a) In any public construction project, a local  
30 government entity may withhold an amount not exceeding 10  
31 percent of each progress payment made to the vendor until the

1 local government project has reached 50-percent completion.  
2 After reaching 50-percent completion, the local government  
3 must reduce to 5 percent the amount of retainage withheld from  
4 each subsequent progress payment made to the vendor. However,  
5 notwithstanding the provisions of this subsection, a  
6 municipality with a population of 25,000 or fewer, or a county  
7 with a population of 100,000 or fewer, may withhold retainage  
8 in an amount not exceeding 10 percent of each progress payment  
9 made to the vendor until final completion and acceptance of  
10 the project by the local government. For purposes of this  
11 subsection, the term "50-percent completion" means as defined  
12 in the contract between the local government entity and the  
13 vendor, or, if not defined in the contract, the point at which  
14 the local government has expended 50 percent of the total  
15 project costs identified in the contract, plus all change  
16 orders and other additions issued subsequent to the approval  
17 of the contract by the governing body of the local government,  
18 and the level of actual project construction is equivalent to  
19 such expenditure of funds.

20 (b) After 50-percent completion, the vendor may  
21 present to the local government entity a payment request for  
22 up to one-half of the retainage amount held by the local  
23 government. The local government entity shall promptly make  
24 payment to the vendor, unless the local government has  
25 grounds, pursuant to the contract or as provided in paragraph  
26 (d), for withholding the payment of retainage. If the local  
27 government makes payment of retainage to the vendor under this  
28 paragraph, the vendor shall timely remit payment of such  
29 retainage to the appropriate subcontractors and suppliers.

30 (c) After 50-percent completion, the vendor may elect  
31 to withhold retainage from payments to its subcontractors at a

1 rate higher than 5 percent. The specific amount to be withheld  
2 must be determined on a case-by-case basis and must be based  
3 on the vendor's assessment of the subcontractor's past  
4 performance, the likelihood that such performance will  
5 continue, and the vendor's ability to rely on other  
6 safeguards. The vendor shall notify the subcontractor, in  
7 writing, of its determination to withhold more than 5 percent  
8 of the progress payment and the reasons for making that  
9 determination, and the vendor may not request the release of  
10 such retained funds from the local government.

11 (d) Nothing in this section requires the local  
12 government to pay or release any amounts that are the subject  
13 of a good-faith dispute, the subject of an action brought  
14 pursuant to s. 255.05, or otherwise the subject of a claim or  
15 demand by the local government or vendor.

16 (e) The timeframes set forth in this section for  
17 payment of payment requests apply to any payment request for  
18 retainage made pursuant to this subsection.

19 Section 4. Section 255.0705, Florida Statutes, is  
20 created to read:

21 255.0705 Short title.--Sections 255.0705-255.078 may  
22 be cited as the "Florida Prompt Payment Act."

23 Section 5. Subsections (2) and (3) of section 255.071,  
24 Florida Statutes, are amended to read:

25 255.071 Payment of subcontractors, sub-subcontractors,  
26 materialmen, and suppliers on construction contracts for  
27 public projects.--

28 (2) The failure to pay any undisputed obligations for  
29 such labor, services, or materials within 30 days after the  
30 date the labor, services, or materials were furnished and  
31 payment for such labor, services, or materials became due, or

1 within 10 ~~30~~ days after the date payment for such labor,  
2 services, or materials is received, whichever last occurs,  
3 shall entitle any person providing such labor, services, or  
4 materials to the procedures specified in subsection (3) and  
5 the remedies provided in subsection (4).

6 (3) Any person providing labor, services, or materials  
7 for the construction of a public building, for the prosecution  
8 and completion of a public work, or for repairs upon a public  
9 building or public work improvements to real property may file  
10 a verified complaint alleging:

11 (a) The existence of a contract for providing such  
12 labor, services, or materials to improve real property.

13 (b) A description of the labor, services, or materials  
14 provided and alleging that the labor, services, or materials  
15 were provided in accordance with the contract.

16 (c) The amount of the contract price.

17 (d) The amount, if any, paid pursuant to the contract.

18 (e) The amount that remains unpaid pursuant to the  
19 contract and the amount thereof that is undisputed.

20 (f) That the undisputed amount has remained due and  
21 payable pursuant to the contract for more than 30 days after  
22 the date the labor or services were accepted or the materials  
23 were received.

24 (g) That the person against whom the complaint was  
25 filed has received payment on account of the labor, services,  
26 or materials described in the complaint more than 10 ~~30~~ days  
27 prior to the date the complaint was filed.

28 Section 6. Section 255.072, Florida Statutes, is  
29 created to read:

30 255.072 Definitions.--As used in ss. 255.073-255.078,  
31 the term:



1           (1) "Agent" means project architect, project engineer,  
2 or any other agency or person acting on behalf of a public  
3 entity.

4           (2) "Construction services" means all labor, services,  
5 and materials provided in connection with the construction,  
6 alteration, repair, demolition, reconstruction, or any other  
7 improvements to real property. The term "construction  
8 services" does not include contracts or work performed for the  
9 Department of Transportation.

10           (3) "Payment request" means an invoice or request for  
11 payment for construction services which conforms with all  
12 statutory requirements and with all requirements specified by  
13 the public entity to which the payment request is submitted.

14           (4) "Public entity" means the state, a state  
15 university, or any office, board, bureau, commission,  
16 department, branch, division, or institution thereof, or any  
17 project supported by state funds, but does not include a local  
18 government entity as defined in s. 218.72.

19           (5) "Purchase" means the purchase of construction  
20 services.

21           (6) "Vendor" means any person providing construction  
22 services directly to a public entity.

23           Section 7. Section 255.073, Florida Statutes, is  
24 created to read:

25           255.073 Timely payment for purchases of construction  
26 services.--

27           (1) Except as otherwise provided in ss.  
28 255.072-255.078, s. 215.422 governs the timely payment for  
29 construction services by a public entity under this act.  
30  
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1           (2) If a public entity disputes a portion of a payment  
2 request, the undisputed portion must be timely paid, in  
3 accordance with subsection (1).

4           (3) When a vendor receives payment from a public  
5 entity for labor, services, or materials furnished by  
6 subcontractors and suppliers hired by the vendor, the vendor  
7 shall remit payment due to those subcontractors and suppliers  
8 within 10 days after the vendor's receipt of payment. When a  
9 subcontractor receives payment from a vendor for labor,  
10 services, or materials furnished by subcontractors and  
11 suppliers hired by the subcontractor, the subcontractor shall  
12 remit payment due to those subcontractors and suppliers within  
13 10 days after the subcontractor's receipt of payment. This  
14 subsection does not prohibit a vendor or subcontractor from  
15 disputing, pursuant to the terms of the relevant contract, all  
16 or any portion of a payment alleged to be due to another  
17 party. If such a dispute occurs, the vendor or subcontractor  
18 may withhold the disputed portion of any such payment if the  
19 vendor or subcontractor notifies the party whose payment is  
20 disputed, in writing, of the amount in dispute and the actions  
21 required to cure the dispute. The vendor or subcontractor must  
22 pay all undisputed amounts due within the time limits imposed  
23 by this section.

24           (4) All payments due under this section and not made  
25 within the time periods specified by this section shall bear  
26 interest at the rate of 1 percent per month, or the rate  
27 specified by contract, whichever is greater.

28           Section 8. Section 255.074, Florida Statutes, is  
29 created to read:

30           255.074 Procedures for calculation of payment due  
31 dates.--

1           (1) Each public entity shall establish procedures  
2 whereby each payment request received by the public entity is  
3 marked as received on the date on which it is delivered to an  
4 agent or employee of the public entity or of a facility or  
5 office of the public entity.

6           (2) If the terms under which a purchase is made allow  
7 for partial deliveries and a payment request is submitted for  
8 a partial delivery, the time for payment for the partial  
9 delivery must be calculated from the time of the partial  
10 delivery and the submission of the payment request in the same  
11 manner as provided in s. 255.073.

12           (3) The public entity must submit a payment request to  
13 the Chief Financial Officer for payment no more than 25 days  
14 after receipt of the payment request.

15           Section 9. Section 255.075, Florida Statutes, is  
16 created to read:

17           255.075 Mandatory interest.--A contract between a  
18 public entity and a vendor or a provider of construction  
19 services may not prohibit the collection of late payment  
20 interest charges allowable under ss. 255.072-255.078.

21           Section 10. Section 255.076, Florida Statutes, is  
22 created to read:

23           255.076 Improper payment request; resolution of  
24 disputes.--

25           (1) If a vendor submits an improper payment request,  
26 the public entity shall, within 10 days after receiving the  
27 improper payment request, notify the vendor that the payment  
28 request is improper and indicate what corrective action on the  
29 part of the vendor is needed to make the payment request  
30 proper.

31

1           (2) If a dispute occurs between a vendor and a public  
2 entity concerning payment of a payment request, the dispute  
3 must be resolved as provided in this section. Each public  
4 entity shall establish a dispute resolution procedure to be  
5 followed by the public entity if such a dispute occurs. The  
6 procedure must provide that proceedings to resolve the dispute  
7 must commence not later than 45 days after the date on which  
8 the public entity received the payment request and must  
9 conclude by final decision of the public entity not later than  
10 60 days after the date on which the public entity received the  
11 payment request. Such procedures are not subject to chapter  
12 120 and do not constitute an administrative proceeding that  
13 prohibits a court from deciding de novo any action arising out  
14 of the dispute. If the dispute is resolved in favor of the  
15 public entity, interest charges begin to accrue 15 days after  
16 the public entity's final decision. If the dispute is resolved  
17 in favor of the vendor, interest begins to accrue as of the  
18 original date the payment became due.

19           (3) In an action to recover amounts due under ss.  
20 255.072-255.078, the court shall award court costs and  
21 reasonable attorney's fees, including fees incurred through  
22 any appeal, to the prevailing party, if the court finds that  
23 the nonprevailing party withheld any portion of the payment  
24 that is the subject of the action without any reasonable basis  
25 in law or fact to dispute the prevailing party's claim to  
26 those amounts.

27           Section 11. Section 255.077, Florida Statutes, is  
28 created to read:

29           255.077 Project closeout and payment of retainage.--

30           (1) A public entity must present to the vendor a final  
31 punch list of all items required to render complete,

1 satisfactory, and acceptable the construction services  
2 purchased, within 30 days after the earliest of the following:  
3 (a) Issuance of a temporary or final certificate of  
4 occupancy, if applicable;  
5 (b) Substantial completion of the construction  
6 services purchased, as defined in the contract; or  
7 (c) Beneficial occupancy or use of the structure,  
8 building, facility, or improvement that is the subject of the  
9 construction services purchased, as defined in the contract.  
10 (2) If the purchase relates to construction services  
11 on more than one building or structure, the public entity  
12 shall prepare a final punch list for each building or  
13 structure. The public entity must present to the vendor a  
14 final punch list with regard to each building or structure  
15 within 30 days after the earliest of the following:  
16 (a) Issuance of a temporary or final certificate of  
17 occupancy on the particular building or structure, if  
18 applicable;  
19 (b) Substantial completion of the particular building  
20 or structure, as defined in the contract; or  
21 (c) Beneficial occupancy or use of the particular  
22 structure, building, facility, or improvement, as defined in  
23 the contract.  
24  
25 Unless the contract provides otherwise, the public entity  
26 shall pay out retainage to the vendor based upon the value of  
27 the construction services rendered with regard to that  
28 structure, building, facility, or improvement as compared to  
29 the total value of the purchase.  
30 (3) Upon completion of all items on the final punch  
31 list or within 30 days after issuance of the punch list,

1 whichever occurs sooner, the vendor shall submit a payment  
2 request for the appropriate amount of retainage. The owner may  
3 withhold up to 150 percent of the cost to complete any  
4 incomplete final punchlist items. Thereafter, ss.  
5 255.072-255.076 apply to the payment of any payment request  
6 for retainage.

7 (4) If the public entity fails to present to the  
8 vendor a final punch list within the time periods provided in  
9 subsection (1) or subsection (2), the project is considered to  
10 be complete and the vendor shall submit a payment request for  
11 the appropriate amount of retainage. Thereafter, ss.  
12 255.072-255.076 apply to the payment of any payment request  
13 for retainage.

14 (5) All items that require correction under the  
15 contract which are identified subsequent to preparation and  
16 delivery of the final punch list must be considered warranty  
17 items or make-good items, and such items have no effect on the  
18 final payment of retainage provided in this section.

19 Section 12. Section 255.078, Florida Statutes, is  
20 created to read:

21 255.078 Public construction retainage.--

22 (1) From the commencement of a public construction  
23 project that is subject to ss. 255.072-255.078 until  
24 50-percent of the contract value has been earned, a public  
25 entity may not withhold as retainage more than 10 percent of  
26 each progress payment to the vendor. When 50-percent of the  
27 contract value has been earned, the vendor may submit a  
28 payment request to the public entity for up to one-half of the  
29 retainage withheld up to that time.

30 (2) After 50-percent of the contract value has been  
31 earned, the public entity may not withhold as retainage more

1 than 5 percent of each progress payment to the vendor.  
2 However, the vendor may withhold retainage from payments to  
3 its subcontractors at a rate higher than 5 percent. The  
4 specific amount to be withheld must be determined on a  
5 case-by-case basis and must be based on the vendor's  
6 assessment of the subcontractor's past performance, the  
7 likelihood that such performance will continue, and the  
8 vendor's ability to rely on other safeguards. The vendor shall  
9 notify the subcontractor, in writing, of its determination to  
10 withhold more than 5 percent of the progress payment and the  
11 reasons for making that determination.

12 (3) This section does not require the payment or  
13 release of amounts that are the subject of a good-faith  
14 dispute.

15 (4) Sections 255.072-255.076 apply to the payment of  
16 any payment request for retainage.

17 Section 13. Paragraph (a) of subsection (2) is  
18 amended, and subsections (10) and (11) are added to section  
19 255.05, Florida Statutes, to read:

20 255.05 Bond of contractor constructing public  
21 buildings; form; action by materialmen.--

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

29

30 NOTICE OF CONTEST OF CLAIM  
31 AGAINST PAYMENT BOND

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

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

DATED on ....., .....

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

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

2. A claimant, except a laborer, who is not in privity with the contractor shall, before commencing or not later than 45 days after commencing to furnish labor, materials, or supplies for the prosecution of the work, furnish the contractor with a notice that he or she intends to look to the bond for protection. A claimant who is not in privity with the contractor and who has not received payment for his or her labor, materials, or supplies shall deliver to the contractor and to the surety written notice of the performance of the



1 labor or delivery of the materials or supplies and of the  
2 nonpayment. The notice of nonpayment may be served at any time  
3 during the progress of the work or thereafter but not before  
4 45 days after the first furnishing of labor, services, or  
5 materials, and not later than 90 days after the final  
6 furnishing of the labor, services, or materials by the  
7 claimant or, with respect to rental equipment, not later than  
8 90 days after the date that the rental equipment was last on  
9 the job site available for use. Any notice of nonpayment  
10 served by a claimant who is not in privity with the contractor  
11 which includes sums for retainage must specify the portion of  
12 the amount claimed for retainage.No action for the labor,  
13 materials, or supplies may be instituted against the  
14 contractor or the surety unless both notices have been given.  
15 Notices required or permitted under this section may be served  
16 in accordance with s. 713.18. An action, except for an action  
17 exclusively for recovery of retainage, must be instituted  
18 against the contractor or the surety on the payment bond or  
19 the payment provisions of a combined payment and performance  
20 bond within 1 year after the performance of the labor or  
21 completion of delivery of the materials or supplies. An action  
22 exclusively for recovery of retainage must be instituted  
23 against the contractor or the surety within 1 year after the  
24 performance of the labor or completion of delivery of the  
25 materials or supplies, or within 90 days after receipt of  
26 final payment (or the payment estimate containing the owner's  
27 final reconciliation of quantities if no further payment is  
28 earned and due as a result of deductive adjustments) by the  
29 contractor or surety, whichever comes last. A claimant may not  
30 waive in advance his or her right to bring an action under the  
31 bond against the surety. In any action brought to enforce a

1 claim against a payment bond under this section, the  
2 prevailing party is entitled to recover a reasonable fee for  
3 the services of his or her attorney for trial and appeal or  
4 for arbitration, in an amount to be determined by the court,  
5 which fee must be taxed as part of the prevailing party's  
6 costs, as allowed in equitable actions. The time periods for  
7 service of a notice of nonpayment or for bringing an action  
8 against a contractor or a surety shall be measured from the  
9 last day of furnishing labor, services, or materials by the  
10 claimant and shall not be measured by other standards, such as  
11 the issuance of a certificate of occupancy or the issuance of  
12 a certificate of substantial completion.

13 (10) Notwithstanding any other provision of law to the  
14 contrary, a claimant may not institute an action for the sole  
15 purpose of recovery of retainage against the contractor or  
16 against the surety issuing a payment or performance bond  
17 pursuant to this section until:

18 (a) The public entity has paid out that retainage to  
19 the contractor and the time provided under ss. 218.70-218.76  
20 or ss. 255.072-255.078 for payment of that retainage to the  
21 claimant has expired;

22 (b) The claimant has completed all work required under  
23 its contract and 90 days have passed since the owner's receipt  
24 of the contractor's last payment request; or

25 (c) The claimant has made the written request to the  
26 owner provided in subsection (11) and has not timely received  
27 the requested information from the owner.

28 (11) An owner shall furnish in writing to a claimant  
29 who has provided labor, services, or materials to a project,  
30 within 5 business days after receipt of a written request from  
31 that claimant, the following information:

1           (a) The dates of all payment requests received by the  
2 owner from the contractor.

3           (b) The dates of all payments made by the owner to the  
4 contractor.

5           (c) Whether the owner has received the contractor's  
6 final payment request and, if so, the date the final payment  
7 request was submitted by the contractor to the owner.

8           Section 14. This act shall take effect July 1, 2003.

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10                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
11   COMMITTEE SUBSTITUTE FOR  
12   CS for SB 1724

13 Provides time frames for developing final lists based upon  
14 cost of project. Specifies permissible local government  
15 retainage procedures. Provides that a claimant may institute a  
16 claim for retainage against contractor or surety when 90,  
17 rather than 60, days have passed since the owner received the  
18 last payment request. Deletes newly created s. 255.05(12),  
19 F.S., that related to tolling of statute of limitations for  
20 claims against payment bonds.  
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