

1 A bill to be entitled
 2 An act relating to public project construction bonds;
 3 amending s. 255.05, F.S.; specifying amounts, criteria,
 4 and requirements for payment and performance bonds for
 5 public construction projects; providing an effective date.

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

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 9 Section 1. Paragraph (a) of subsection (1) of section
 10 255.05, Florida Statutes, is amended to read:

11 255.05 Bond of contractor constructing public buildings;
 12 form; action by materialmen.--

13 (1) (a) 1. Any person entering into a formal contract with
 14 the state or any county, city, or political subdivision thereof,
 15 or other public authority, for the construction of a public
 16 building, for the prosecution and completion of a public work,
 17 or for repairs upon a public building or public work shall be
 18 required, before commencing the work or before recommencing the
 19 work after a default or abandonment, to execute, deliver to the
 20 public owner, and record in the public records of the county
 21 where the improvement is located, the following bonds:

22 a. A payment bond in an amount equal to the full contract
 23 amount solely for the protection of claimants supplying labor or
 24 materials to the contractor or the contractor's subcontractors
 25 in the execution of the construction and not for the protection
 26 of persons providing any design services, preconstruction
 27 services, finance services, maintenance services, operations
 28 services, or other related services provided for the contract;

29 however, for construction manager at-risk construction services
 30 and design-build construction services, the amount of the
 31 payment bond shall be the price of construction and shall not
 32 include the cost of any design services, preconstruction
 33 services, finance services, maintenance services, operations
 34 services, or any other related services included in the
 35 contract.

36 b. A ~~and~~ performance bond in an amount equal to the full
 37 contract amount conditioned on the faithful performance of the
 38 contract in accordance with plans, specifications, and
 39 conditions of the contract; however, for construction manager
 40 at-risk construction services and design-build construction
 41 services, the amount of the performance bond shall be the price
 42 of construction and shall not include the cost of any design
 43 services, preconstruction services, finance services,
 44 maintenance services, operations services, or any other related
 45 services included in the contract ~~with a surety insurer~~
 46 ~~authorized to do business in this state as surety.~~

47
 48 To the extent the contractor, pursuant to written agreements
 49 with its subcontractors, requires the subcontractors to provide
 50 performance and payment bonds that name both the contractor and
 51 the public entity as obligees, the amount of the payment and
 52 performance bonds required to be provided by the contractor
 53 pursuant to this paragraph may be reduced by the amount of such
 54 bond or bonds that are provided by the subcontractors.

55 2. A public entity may not require a contractor to secure
 56 a surety bond under this section from a specific agent or

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57 bonding company. The bond must state on its front page: the
58 name, principal business address, and phone number of the
59 contractor, the surety, the owner of the property being
60 improved, and, if different from the owner, the contracting
61 public entity; the contract number assigned by the contracting
62 public entity; and a description of the project sufficient to
63 identify it, such as a legal description or the street address
64 of the property being improved, and a general description of the
65 improvement. Such bond shall be conditioned upon the
66 contractor's performance of the construction work in the time
67 and manner prescribed in the contract and promptly making
68 payments to all persons defined in s. 713.01 who furnish labor,
69 services, or materials for the prosecution of the work provided
70 for in the contract. Any claimant may apply to the governmental
71 entity having charge of the work for copies of the contract and
72 bond and shall thereupon be furnished with a certified copy of
73 the contract and bond. The claimant shall have a right of action
74 against the contractor and surety for the amount due him or her,
75 including unpaid finance charges due under the claimant's
76 contract. Such action shall not involve the public authority in
77 any expense. When such work is done for the state and the
78 contract is for \$100,000 or less, no payment and performance
79 bonds ~~and~~ shall be required. At the discretion of the official
80 or board awarding such contract when such work is done for any
81 county, city, political subdivision, or public authority, any
82 person entering into such a contract which is for \$200,000 or
83 less may be exempted from executing the payment and performance
84 bonds ~~and~~. When such work is done for the state, the Secretary

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85 | of the Department of Management Services may delegate to state
86 | agencies the authority to exempt any person entering into such a
87 | contract amounting to more than \$100,000 but less than \$200,000
88 | from executing the payment and performance bonds ~~bond~~. In the
89 | event such exemption is granted, the officer or officials shall
90 | not be personally liable to persons suffering loss because of
91 | granting such exemption. The Department of Management Services
92 | shall maintain information on the number of requests by state
93 | agencies for delegation of authority to waive the bond
94 | requirements by agency and project number and whether any
95 | request for delegation was denied and the justification for the
96 | denial. Any provision in a payment bond furnished for public
97 | work contracts as provided by this subsection which restricts
98 | the classes of persons as defined in s. 713.01 protected by the
99 | bond or the venue of any proceeding relating to such bond is
100 | unenforceable.

101 | Section 2. This act shall take effect July 1, 2007.