



328940

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2019	.	
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The Committee on Rules (Stargel) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 88 - 144  
and insert:  
site available for use. Any notice of nonpayment served by a  
claimant who is not in privity with the contractor which  
includes sums for retainage must specify the portion of the  
amount claimed for retainage. An action for the labor, services,  
or materials, ~~or supplies~~ may not be instituted against the  
contractor or the surety unless the notice to the contractor and  
notice of nonpayment have been served, if required by this



12 section. Notices required or permitted under this section must  
13 ~~shall~~ be served in accordance with s. 713.18. A claimant may not  
14 waive in advance his or her right to bring an action under the  
15 bond against the surety. In any action brought to enforce a  
16 claim against a payment bond under this section, the prevailing  
17 party is entitled to recover a reasonable fee for the services  
18 of his or her attorney for trial and appeal or for arbitration,  
19 in an amount to be determined by the court, which fee must be  
20 taxed as part of the prevailing party's costs, as allowed in  
21 equitable actions. The time periods for service of a notice of  
22 nonpayment or for bringing an action against a contractor or a  
23 surety shall be measured from the last day of furnishing labor,  
24 services, or materials by the claimant and may not be measured  
25 by other standards, such as the issuance of a certificate of  
26 occupancy or the issuance of a certificate of substantial  
27 completion. The negligent inclusion or omission of any  
28 information in the notice of nonpayment that has not prejudiced  
29 the contractor or surety does not constitute a default that  
30 operates to defeat an otherwise valid bond claim. A claimant who  
31 serves a fraudulent notice of nonpayment forfeits his or her  
32 rights under the bond. A notice of nonpayment is fraudulent if  
33 the claimant has willfully exaggerated the amount unpaid,  
34 willfully included a claim for work not performed or materials  
35 not furnished for the subject improvement, or prepared the  
36 notice with such willful and gross negligence as to amount to a  
37 willful exaggeration. However, a minor mistake or error in a  
38 notice of nonpayment, or a good faith dispute as to the amount  
39 unpaid, does not constitute a willful exaggeration that operates  
40 to defeat an otherwise valid claim against the bond. The service



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41 of a fraudulent notice of nonpayment is a complete defense to  
42 the claimant's claim against the bond. The notice of nonpayment  
43 under this subparagraph must supply the following information,  
44 current as of the date of the notice, and must be in  
45 substantially the following form:

46  
47 NOTICE OF NONPAYMENT

48  
49 To: ... (name of contractor and address)...

50 ... (name of surety and address)...

51 The undersigned claimant notifies you that:

52 1. Claimant has furnished ... (describe labor, services, or  
53 materials) ... for the improvement of the real property  
54 identified as ... (property description) .... The corresponding  
55 amount unpaid to date is \$ ....., of which \$ .... is unpaid  
56 retainage.

57 2. Claimant has been paid to date the amount of

58  
59 ===== T I T L E A M E N D M E N T =====

60 And the title is amended as follows:

61 Delete lines 4 - 5

62 and insert:

63 under oath; specifying that certain negligent