

By Senator Collins

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1 A bill to be entitled
2 An act relating to escrow accounts for improvements to
3 residential real property; amending s. 713.345, F.S.;
4 requiring contractors and qualified companies that
5 receive a specified amount of money for improvements
6 to residential real property to place such payments in
7 an escrow account with specified institutions or
8 persons; providing an exception; requiring the
9 contractor or qualified company to provide certain
10 written information within a specified timeframe to
11 the owner of the residential real property being
12 improved; authorizing the contractor or qualified
13 company to keep funds received from different owners
14 in the same account under certain circumstances;
15 providing that the institution or person with whom
16 funds were deposited is not required to make certain
17 inquiries; providing that funds deposited into an
18 escrow account remain the property of the owner;
19 authorizing the contractor or qualified company to
20 withdraw funds before the substantial completion of
21 work in certain circumstances; authorizing the owner
22 of the residential real property to request in a
23 specified manner an accounting report from the
24 contractor or qualified company; requiring the
25 contractor or qualified company to provide such
26 accounting report within a specified timeframe;
27 providing applicability; creating a rebuttable
28 presumption; providing criminal penalties; providing
29 an effective date.

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31 Be It Enacted by the Legislature of the State of Florida:
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33 Section 1. Present subsection (2) of section 713.345,
34 Florida Statutes, is redesignated as subsection (3), and a new
35 subsection (2) is added to that section, to read:

36 713.345 Moneys received for real property improvements;
37 penalty for misapplication; escrow account required for certain
38 funds.—

39 (2) (a) A contractor or qualified company that receives
40 \$10,000 or more for improvements to residential real property
41 must, before the substantial completion of work under the
42 contract, place such payment in an escrow account with a savings
43 and loan association, bank, or trust company located in this
44 state; an attorney who is a member in good standing with The
45 Florida Bar; or a real estate broker licensed in this state,
46 unless such escrow requirement is waived in writing by the owner
47 of the residential real property.

48 (b) Unless the contract specifies where such payment must
49 be deposited, the contractor or qualified company must, within
50 10 business days after a deposit has been made, inform the owner
51 of the residential real property in writing of the name of the
52 depository institution, attorney, or real estate broker with
53 whom the funds have been deposited.

54 (c) The contractor or qualified company may keep funds
55 received from different owners in the same account if the
56 contractor or qualified company has financial or accounting
57 records that clearly show how the funds deposited were allocated
58 to each owner.

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59 (d) A depository institution, an attorney, or a real estate
60 broker who receives a payment in an amount of \$10,000 or more
61 from a contractor or qualified company under this subsection for
62 improvements to residential real property is not required to
63 inquire into the validity or propriety of any deposits to or
64 withdrawals from the escrow account or to ensure that any
65 withdrawals from such account are used for a specific purpose as
66 required by a contract. A deposit into the escrow account
67 remains the property of the owner of the residential real
68 property, except as otherwise provided in this subsection.

69 (e) A contractor or qualified company may withdraw funds
70 from the escrow account before the substantial completion of
71 work in the following circumstances:

72 1. Under the terms of a payment schedule agreed to in the
73 contract between the contractor or qualified company and the
74 owner of the residential real property; or

75 2. Upon substantial completion of the improvements to the
76 residential real property if the owner of such property violates
77 the contract, but only if the amount withdrawn by the contractor
78 or qualified company covers reasonable costs plus liquidated
79 damages not to exceed \$500.

80 (f) If a waiver of the escrow requirement has been executed
81 in writing, the owner of the residential real property may
82 deliver by certified mail, return receipt requested, a written
83 demand to the address listed in the contract for an accounting
84 report of the funds paid to the contractor or qualified company.
85 If the address of the contractor or qualified company is not
86 provided in the contract, or a written contract or agreement
87 does not exist, the owner must deliver by certified mail, return

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88 receipt requested, the written demand to the address that is
89 listed for the contractor or qualified company with the
90 department for licensing purposes. Within 60 days after receipt
91 of such demand, the contractor or qualified company must provide
92 the owner with an accounting report indicating payments that
93 were made to subcontractors and for purchased materials.

94 (g) This subsection does not apply to any contract for
95 hourly labor provided by the contractor or qualified company,
96 but applies only to payments made to subcontractors and for
97 materials before substantial completion of the contract.

98 (h) The failure of a contractor or qualified company to
99 respond to an owner's written demand for an accounting report as
100 required under paragraph (f) creates a rebuttable presumption
101 that a violation of this subsection was willful.

102 (i) A contractor or qualified company that violates this
103 subsection commits a felony of the third degree, punishable as
104 provided in s. 775.082, s. 775.083, or s. 775.084.

105 Section 2. This act shall take effect July 1, 2024.