

Committee Substitute for  
Committee Substitute for Senate Bill No. 652

An act relating to public construction bonds; amending s. 255.05, F.S.; revising requirements for the form used for public construction bonds; requiring payment provisions of public construction bonds to be construed as statutory bonds; requiring payment bond forms to reference notice and time limitation provisions; amending s. 624.155, F.S.; providing that a surety issuing a payment or performance bond on certain projects is not an insurer for the purpose of specified civil remedies; providing an effective date.

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

Section 1. Subsections (3), (4), and (6) of section 255.05, Florida Statutes, are amended to read:

255.05 Bond of contractor constructing public buildings; form; action by materialmen.—

(3) The bond required in subsection (1) may be in substantially the following form:

PUBLIC CONSTRUCTION BOND

Bond No. ... (enter bond number) ...

BY THIS BOND, We ..., as Principal and ..., a corporation, as Surety, are bound to ..., herein called Owner, in the sum of \$..., for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the contract dated ..., ..., between Principal and Owner for construction of ..., the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and

2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and

3. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and

4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

Any changes in or under the contract documents and compliance or non-compliance with any formalities connected with the contract or the changes does not affect Surety’s obligation under this bond.

DATED ON ....., .....

...(Name of Principal)...  
By ...(As Attorney in Fact)...  
...(Name of Surety)...

~~(4) The payment bond provisions of all bonds required by furnished for public work contracts described in subsection (1) shall, regardless of form, be construed and deemed statutory payment bonds furnished pursuant to this section and such bonds shall not under any circumstances be converted into common law bonds bond provisions, subject to all requirements of subsection (2).~~

(6) All payment bond forms used by a public owner and all payment bonds executed pursuant to this section by a surety shall make reference to this section by number and shall contain reference to the notice and time limitation provisions in subsection (2) of this section.

Section 2. Subsection (9) is added to section 624.155, Florida Statutes, to read:

624.155 Civil remedy.—

(9) A surety issuing a payment or performance bond on the construction or maintenance of a building or roadway project is not an insurer for purposes of subsection (1).

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

Approved by the Governor June 14, 2005.

Filed in Office Secretary of State June 14, 2005.