

AUTHOR'S INTRODUCTION

2024-2025 Edition, Volumes 8 and 8A

Computation of attorney fees. – Statutory clarification - In any action in which attorney fees are determined or awarded by the court, there is a strong presumption that a lodestar fee is sufficient and reasonable. This presumption may be overcome only in a rare and exceptional circumstance with evidence that competent counsel could not otherwise be retained.

Statute of Limitations

Negligence claims statute reduced from 4 years to 2 years.

Insurance Bad Faith

No bad faith claim against liability insurer if the insurer tenders the lesser of the policy limits or the amount demanded by the claimant within 90 days after receiving actual notice of a claim which is accompanied by sufficient evidence to support the amount of the claim. Mere negligence alone is insufficient to constitute bad faith.

Multifamily residential property safety and security; presumption against liability.—The owner or principal operator of a multifamily residential property which substantially implements certain security measures on that property has a presumption against liability in connection with criminal acts that occur on the premises which are committed by third parties who are not employees or agents of the owner or operator. F.S. **768.0706**

627.756 Bonds for construction contracts; attorney fees

In a suit brought by an owner, a contractor, a subcontractor, a laborer, or a materialman against a surety insurer under payment or performance bonds written by the insurer under the laws of this state to indemnify against pecuniary loss by breach of a building or construction contract, upon the rendition of a judgment or decree by any of the courts of this state against the surety insurer and in favor of the owner, contractor, subcontractor, laborer, or materialman, the trial court or, in the event of an appeal in which the owner, contractor, subcontractor, laborer, or materialman prevails, the appellate court, shall adjudge or decree against the surety insurer and in favor of the owner, contractor, subcontractor, laborer, or materialman a reasonable sum as fees or compensation for the attorney prosecuting the suit in which

the recovery is had. (Just change in statute authorizing the fees.)

Statute of repose. Shortening and clarification. In any event, an action must be commenced within 7 10 years after the date the authority having jurisdiction issues a temporary certificate of occupancy. If a newly constructed single-dwelling residential building is used as a model home, the time begins to run from the date that a deed is recorded first transferring title to another party. Notwithstanding any provision of this section to the contrary, if the improvement to real property consists of the design, planning, or construction of multiple buildings, each building must be considered its own improvement for purposes of determining the limitations period.

DOT phased Design/Build projects - F.S. 337.11

If the department of Trans. determines that it is in the best interests of the public, the department may combine the design and construction phases of a project fully funded in the work program into a single contract and select the design-build firm in the early stages of a project to ensure that the design build firm is part of the collaboration and development of the design as part of a step-by-step progression through construction. Such a contract is referred to as a phased design-build contract. For phased design-build contracts, selection and award must include a two-phase process. For phase one, the department shall competitively award the contract to a design-build firm based upon qualifications. For phase two, the design-build firm shall competitively bid construction trade subcontractor packages and, based upon these bids, negotiate with the department a fixed firm price or guaranteed maximum price that meets the project budget and scope as advertised in the request for qualifications.

Public Construction – Retainage

218.735 Timely payment for purchases of construction services.— (Punch list)

Each contract for construction services between a local governmental entity and a contractor must provide for the development of a single list of items and the estimated cost to complete each item on the list required to render complete, satisfactory, and acceptable the construction services purchased by the local governmental entity. The contract must specify the process for developing the list and for determining the cost to complete each item on the list. The final contract completion date must be at least 30 days after the delivery of the list of items. If the list is not provided to the contractor by the agreed upon date for delivery of the list, the contract time for completion must be extended by the number of days the local governmental entity

exceeded the delivery date.

Damages may not be assessed against a contractor for failing to complete a project within the time required by the contract, unless the contractor failed to complete the project within the contract period as extended under this paragraph.

Within 20 business days after the list is created, the local governmental entity must pay the contractor the remaining contract balance that includes all retainage previously withheld by the local governmental entity less an amount equal to 150 percent of the estimated cost to complete the items on the list. This does not require the local governmental entity to pay or release any amounts that are the subject of a good faith dispute made in writing pursuant to the contract, or the subject of a claim brought pursuant to F.S. 255.05.

255.073 Timely payment for purchases of construction services.— (Undisputed amount)

If a public entity disputes a portion of a payment request, the undisputed portion must be timely paid by the date required under the contract or by 20 business days after receipt of the request, whichever is Earlier.

Clarification on service of lien documents. F.S. 713.18

Service of a notice to owner or a preliminary notice to contractor under this part, s. 255.05, or s. 337.18, or s. 713.23 is effective as of the date of mailing and the requirements for service under this section have been satisfied if all of the following requirements have been met:

(a) The notice is mailed by registered, Global Express Guaranteed, or certified mail, with postage prepaid, to the person to be served and addressed as prescribed

(a) The notice is mailed within 40 days after the date the lienor first furnishes labor, services, or materials

The instrument is served if the document meets both of the following requirements:

It is returned as being “refused,” “moved, not forwardable,” or “unclaimed,” or is otherwise not delivered or deliverable through no fault of the person serving the document

Contractor Licensing - optional by state:

F.S. 489.113 (6)

(b) By July 1, 2024, the board shall, by rule, establish certified specialty contractor categories for voluntary licensure for all of the following:

FLORIDA CONSTRUCTION LAW

1. Structural aluminum or screen enclosures.
2. Marine seawall work.
3. Marine bulkhead work.
4. Marine dock work.
5. Marine pile driving.
6. Structural masonry.
7. Structural prestressed, precast concrete work.
8. Rooftop solar heating installation.
9. Structural steel.
10. Window and door installation, including garage door installation and hurricane or windstorm protection.
11. Plaster and lath.
12. Structural carpentry.

A local government may not require a license as a prerequisite to submit a bid for public works projects if the work to be performed does not *require* a license under general law.