

1 A bill to be entitled
2 An act relating to construction contracting; amending
3 s. 713.01, F.S.; defining the term "substantial
4 completion"; amending s. 713.345, F.S.; requiring
5 contractors and qualified companies that receive a
6 specified amount of money for improvements to
7 residential real property to place such payments in an
8 escrow account with specified institutions or persons
9 or to provide a surety bond; requiring the contractor
10 or qualified company to provide certain written
11 information within a specified timeframe to the owner
12 of the residential real property being improved;
13 authorizing the contractor or qualified company to
14 keep funds received from different owners in the same
15 account under certain circumstances; providing that
16 the institution and person with whom funds were
17 deposited are not required to make certain inquiries;
18 providing that funds deposited into an escrow account
19 remain the property of the owner; authorizing the
20 contractor or qualified company to withdraw funds
21 before the substantial completion of work in certain
22 circumstances; authorizing the owner of the
23 residential real property to request in a specified
24 manner an accounting record from the contractor or
25 qualified company; requiring the contractor or

26 | qualified company to provide such accounting records
 27 | within a specified timeframe; requiring a contractor
 28 | or qualified company to record a payment and
 29 | performance bond in certain circumstances; requiring
 30 | the owner of the residential real property to pay for
 31 | the cost of such recording; providing that a
 32 | contractor or qualified company has control over
 33 | certain disbursements if certain requirements are met;
 34 | providing applicability; creating a rebuttable
 35 | presumption; providing criminal penalties; creating s.
 36 | 938.14, F.S.; requiring the court to impose an
 37 | additional court cost for certain offenses; providing
 38 | that such court cost is a condition of probation,
 39 | community control, or court-ordered supervision;
 40 | requiring the clerk of the court to transfer a
 41 | specified amount to the Florida Homeowners'
 42 | Construction Recovery Fund; providing for the clerk of
 43 | the court to retain a service charge; amending s.
 44 | 489.140, F.S.; conforming a provision to changes made
 45 | by the act; providing an effective date.

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

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 49 | Section 1. Subsection (30) of section 713.01, Florida
 50 | Statutes, is renumbered as subsection (31), and a new subsection

51 (30) is added to that section, to read:

52 713.01 Definitions.—As used in this part, the term:

53 (30) "Substantial completion" means performance that is
54 nearly equivalent to that which was contracted for and when only
55 minor, corrective, or warranty work remains.

56 Section 2. Subsection (2) of section 713.345, Florida
57 Statutes, is renumbered as subsection (3), and a new subsection
58 (2) is added to that section, to read:

59 713.345 Moneys received for real property improvements;
60 penalty for misapplication; escrow account required for certain
61 funds.—

62 (2)(a) A contractor or qualified company that receives
63 \$10,000 or more for improvements to residential real property
64 must, before the substantial completion of work under the
65 contract, place such payment in an escrow account with a savings
66 and loan association, bank, or trust company located in the
67 state; an attorney who is a member in good standing with The
68 Florida Bar; or a real estate broker licensed in the state,
69 unless such escrow requirement is waived in writing by the owner
70 of the residential real property. If such escrow is waived in
71 writing by the owner of the residential real property, the
72 contractor must provide a copy of a surety bond if required
73 under paragraph (g).

74 (b) Unless the contract specifies where such payment must
75 be deposited, the contractor or qualified company must, within

76 10 business days after a deposit has been made, inform the owner
77 of the residential real property in writing of the name of the
78 depository institution, attorney, or real estate broker with
79 whom the funds have been deposited.

80 (c) The contractor or qualified company may keep funds
81 received from different owners in the same account if the
82 contractor or qualified company has financial or accounting
83 records that clearly show how the funds deposited were allocated
84 to each owner.

85 (d) A depository institution, an attorney, or a real
86 estate broker who receives a payment in an amount of \$10,000 or
87 more from a contractor or qualified company under this
88 subsection for improvements to residential real property is not
89 required to inquire into the validity or propriety of any
90 deposits to or withdrawals from the escrow account or to ensure
91 that any withdrawals from such account are used for a specific
92 purpose as required by a contract. A deposit into the escrow
93 account remains the property of the owner of the residential
94 real property except as otherwise provided in this subsection.

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

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

101 2. When required to make payments to subcontractors or for
102 materials related to the contracted job in order to comply with
103 subsection (1); or

104 3. Upon substantial completion of the improvements to the
105 residential real property if the owner of such property violates
106 the contract, but only if the amount withdrawn by the contractor
107 or qualified company covers reasonable costs plus liquidated
108 damages not to exceed \$500.

109 (f) If a waiver of the escrow requirement has been
110 executed in writing, the owner of the residential real property
111 may deliver by certified mail, return receipt requested, a
112 written demand to the address listed in the contract for an
113 accounting report of the funds paid to the contractor or
114 qualified company. If the address of the contractor or qualified
115 company is not provided in the contract, or a written contract
116 or agreement does not exist, the owner must deliver by certified
117 mail, return receipt requested, the written demand to the
118 address that is listed for the contractor or qualified company
119 with the department for licensing purposes. Within 60 days after
120 receipt of such demand, the contractor or qualified company must
121 provide the owner with an accounting record indicating payments
122 that were made to subcontractors and for purchased materials.

123 (g) If the escrow requirement is waived in writing by the
124 owner of the residential real property and the value of the
125 improvement or construction is more than \$100,000, a contractor

126 or qualified company must record a copy of a payment by the
127 owner of the residential real property and a performance bond
128 equal to the value of the contract with an insurer authorized to
129 do business in the state as surety. The owner of the residential
130 real property is responsible for the cost of such recording.

131 (h) A contractor or qualified company has control over the
132 disbursement of funds in escrow if the contractor or qualified
133 company complies with paragraph (e).

134 (i) This subsection does not apply to any of the
135 following:

136 1. A contract for hourly labor provided by the contractor
137 or qualified company, but applies only to payments made to
138 subcontractors and for materials before substantial completion
139 of the contract.

140 2. A contractor who owns the real property upon which the
141 improvement or construction is to be completed.

142 3. A cost-plus contract.

143 (j) The failure of a contractor or qualified company to
144 respond to an owner's written demand for an accounting report as
145 required under paragraph (f) creates a rebuttable presumption
146 that a violation of this subsection was willful.

147 (k) A contractor or qualified company that willfully
148 violates this subsection commits a felony of the third degree,
149 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

150 Section 3. Section 938.14, Florida Statutes, is created to

151 read:

152 938.14 Court cost imposed in cases related to construction
 153 fraud.-

154 (1) If a person pleads guilty or nolo contendere to, or is
 155 found guilty of, regardless of adjudication, an offense in
 156 violation of s. 489.126, s. 489.127, or s. 713.345, the court
 157 shall impose a court cost of \$51 against the offender in
 158 addition to any other cost or penalty required by law. Payment
 159 of such court cost is a condition of probation, community
 160 control, or any other court-ordered supervision.

161 (2) Each month the clerk of the court shall transfer \$50
 162 from the proceeds of the court cost to the Florida Homeowners'
 163 Construction Recovery Fund. The clerk of the court shall retain
 164 \$1 of each sum collected as a service charge.

165 Section 4. Section 489.140, Florida Statutes, is amended
 166 to read:

167 489.140 Florida Homeowners' Construction Recovery Fund.-
 168 There is created the Florida Homeowners' Construction Recovery
 169 Fund as a separate account in the Professional Regulation Trust
 170 Fund. The recovery fund shall be funded pursuant to ss. 468.631
 171 and 938.14 ~~s. 468.631~~.

172 Section 5. This act shall take effect July 1, 2024.