

28 ~~[Except persons who are in privity of contract with a payment bond principal or except~~
29 ~~for persons performing labor for wages, any]~~

30 (1) Any person furnishing labor, service, equipment, or material for which a payment
31 bond claim may be made under this chapter shall provide preliminary notice to the payment
32 bond principal as prescribed by Section 38-1-27[-], except that this section does not apply:

- 33 (a) to a person who is in privity of contract with the payment bond principal;
- 34 (b) to a person performing labor for wages; or
- 35 (c) if a notice of commencement is not filed as prescribed in Section 38-1-27 for the
36 project or improvement for which labor, service, equipment, or material is furnished.

37 (2) Any person who fails to provide ~~[this]~~ the preliminary notice required by
38 Subsection (1) may not make a payment bond claim under this chapter.

39 (3) The preliminary notice required by Subsection (1) must be provided prior to
40 commencement of any action on the payment bond.

41 Section 2. Section **14-2-5** is amended to read:

42 **14-2-5. Preliminary notice requirement.**

43 ~~[Except subcontractors who are in privity of contract with a payment bond principal or~~
44 ~~except for persons performing labor for wages, any]~~

45 (1) Any person furnishing labor, service, equipment, or material for which a payment
46 bond claim may be made under this chapter shall provide preliminary notice to the payment
47 bond principal as prescribed by Section 38-1-27[-], except that this section does not apply:

- 48 (a) to a person who is in privity of contract with the payment bond principal;
- 49 (b) to a person performing labor for wages; or
- 50 (c) if a notice of commencement is not filed as prescribed in Section 38-1-27 for the
51 project or improvement for which labor, service, equipment, or material is furnished.

52 (2) Any person who fails to provide ~~[this]~~ the preliminary notice required by
53 Subsection (1) may not make a payment bond claim under this chapter.

54 (3) The preliminary notice required by Subsection (1) must be provided prior to
55 commencement of any action on the payment bond.

56 Section 3. Section **63-56-38.1** is amended to read:

57 **63-56-38.1. Preliminary notice requirement.**

58 ~~[Except subcontractors who are in privity of contract with a payment bond principal or~~

59 ~~except for persons performing labor for wages, any]~~
60 (1) Any person furnishing labor, service, equipment, or material for which a payment
61 bond claim may be made under this chapter shall provide preliminary notice to the payment
62 bond principal as prescribed by Section 38-1-27[~~;~~], except that this section does not apply:
63 (a) to a person who is in privity of contract with the payment bond principal;
64 (b) to a person performing labor for wages; or
65 (c) if a notice of commencement is not filed as prescribed in Section 38-1-27 for the
66 project or improvement for which labor, service, equipment, or material is furnished.
67 (2) Any person who fails to provide [~~this~~] the preliminary notice required by
68 Subsection (1) may not make a payment bond claim under this chapter.
69 (3) The preliminary notice required by Subsection (1) must be provided prior to
70 commencement of any action on the payment bond.

Legislative Review Note
as of 11-19-03 4:13 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-10-03 10:12 AM

The Business and Labor Interim Committee recommended this bill.