

14-1-19 Failure of government entity to obtain payment bond -- Right of action -- Notice.

- (1) If the state or a political subdivision fails to obtain a payment bond, it shall, upon demand by a person who has furnished labor or supplied materials to the contractor or subcontractor for the work provided for in a contract which is subject to Section 14-1-18, promptly make payment to that person.
- (2) A person described in Subsection (1):
 - (a) shall have a direct right of action against the state or the political subdivision in any court having jurisdiction in any county in which the contract was to be performed, upon giving written notice to the state or political subdivision within 90 days from the date on which such person performed the last of the labor or supplied the last of the material for which claim is made;
 - (b) shall state in the notice a designation of the construction project and its location, the amount claimed, and the name of the party for whom the labor was performed or to whom the material was supplied; and
 - (c) shall serve the notice by registered or certified mail, postage prepaid, on the state agency or political subdivision that is a party to the contract.
- (3) An action described in this section may not be commenced later than one year after the day on which the last of the labor was performed or material was supplied by the person bringing the action.
- (4) Unless otherwise specified in a lawful contract between the state or the political subdivision against which the claim is made and the person demanding payment, the interest rate applicable to the payment or claim is the rate described in Subsection 15-1-1(2).

Amended by Chapter 330, 2012 General Session