

CONSTRUCTION BONDING STATUTES

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael T. Morley

LONG TITLE

General Description:

This bill modifies provisions requiring preliminary notice in certain bond actions.

Highlighted Provisions:

This bill:

- ▶ provides that in certain bond actions, including actions under state procurement, a preliminary notice is not required to be filed if a notice of commencement is not filed; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

14-1-20, as enacted by Chapter 271, Laws of Utah 1989

14-2-5, as enacted by Chapter 271, Laws of Utah 1989

63-56-38.1, as enacted by Chapter 271, Laws of Utah 1989

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **14-1-20** is amended to read:

14-1-20. Preliminary notice requirement.

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

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

(a) to a person who is in privity of contract with the payment bond principal;

(b) to a person performing labor for wages; or

(c) if a notice of commencement is not filed as prescribed in Section 38-1-27 for the project or improvement for which labor, service, equipment, or material is furnished.

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

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

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

14-2-5. Preliminary notice requirement.

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

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

(a) to a person who is in privity of contract with the payment bond principal;

(b) to a person performing labor for wages; or

(c) if a notice of commencement is not filed as prescribed in Section 38-1-27 for the project or improvement for which labor, service, equipment, or material is furnished.

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

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

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

63-56-38.1. Preliminary notice requirement.

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

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

(a) to a person who is in privity of contract with the payment bond principal;

(b) to a person performing labor for wages; or

(c) if a notice of commencement is not filed as prescribed in Section 38-1-27 for the project or improvement for which labor, service, equipment, or material is furnished.

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

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