



# FLORIDA SURETY BONDS T I M E S

SPRING 2010

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## WITH BANKS - THERE OUGHTA BE A LAW!

**W**hen it comes to construction financing, there is. Prior to 1992, the bank had no requirement to contact contractors and other lienors on a project if the bank decided to stop funding during the project. You can imagine how painful it would be to continue to invest labor and material into a project that is already dead in the water. In 1992, the Florida Legislature passed Florida Statute 713.347 (2) which states that within 5 business days that "the lender will cease further advances pursuant to the loan, the lender shall serve written notice of that decision on the contractor and on any other lienor who has given the lender notice."

The failure to give proper notice to the contractor "renders the lender liable to the contractor to the extent of the actual value of the materials and direct labor costs furnished by the contractor plus 15 percent for overhead, profit, and all other costs from the date on which notice of the lender's decision should have been served . . ." There is a limit to this liability. "The liability of the lender shall in no event be greater than the amount of undisbursed funds at the time that the notices should have been given unless the failure to give notice was done for the purpose of defrauding the contractor." With banks acting as strangely as they are now, this a good



law to keep in mind. Five days notice is not much notice, but no notice could be devastating.



## ALWAYS KNOW YOUR BREAK-EVEN POINT

Maximize your profit by regularly checking your ever-changing break-even point. Indeed, as the construction market changes, you'll want to manage your break-even point, or it could come back to haunt you - Big Time! Your break-even point is figured by dividing your Total Fixed Expenses by your Gross Profit Percentage. Thus, if your fixed expenses are running \$100,000, and you are earning 10%, then your break

even point is \$1,000,000 in sales. Most general contractors would figure their fixed expenses to be the same number as their General and Administrative Expenses. Subcontractors who use equipment would need to add their fixed equipment expense to their G&A. Those equipment payments can sneak up and bite you, IF you're not watching.

Play with the "what-if" scenarios: What if, next year, your sales dip by 10%, or your gross margins drop by 3%? How will that affect your bottom line? It could mean you are losing money. You should figure your break-even point today. Then during this coming year, you should check it monthly, quarterly and annually. Be sure to make modifications in your business as you see it's needed.

## DEMOCRACY IS TWO WOLVES AND A LAMB DECIDING WHAT TO HAVE FOR DINNER. LIBERTY IS A WELL-ARMED LAMB. – BENJAMIN FRANKLIN

**T**he highest personal federal tax rate now is 35%. This is scheduled to be increased in 2011 to 39.6%. If the House version of health care bill passes and is effective in 2011, the highest personal federal tax rate will increase to 45%. More dramatically, the current maximum tax on qualified dividends is 15%. This is scheduled to be increased in 2011 to 39.6%. The current maximum rate on long-term capital gains is 15%, and this is scheduled to be increased in 2011 to 20%.

As tax rates go up, our deductions are going to be limited. The maximum deduction for Section 179 is \$250,000 in 2009. The maximum deduction for Section 179 is \$125,000 for years beginning in 2010. Bonus depreciation applies to new assets acquired in calendar years 2008 and 2009. Bonus depreciation is a 50% deduction in the year the property is placed in service. This bonus depreciation does not apply to new assets acquired in 2010 or thereafter.



As you do your taxes in 2009, be sure to consider Section 179 D – Energy Incentives. These are deductions that are equal to the cost of energy efficient commercial building property placed into service during the year. The maximum deduction is \$1.80 per square foot of the building. Another very important deduction is the Section 199 – Domestic Manufacturer Deduction. This deduction was 6% times the lesser of qualified construction income or taxable income. This deduction grows to 9% in 2010, and we understand that construction companies do qualify.

The 3% withholding requirement on certain payments made by government entities is still scheduled to go into effect for payments made after 12/31/10. This is a very bad law. It is 3% tax withholding based on contract value, not profit. Get active in your trade organization to fight this. Also, we are not tax experts, so be sure to refer to your CPA to see how changing tax laws may affect you.



# FLORIDA SURETY BONDS, INC.

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RETURN SERVICE REQUESTED



## AVOID SURPRISES IN YOUR BOND COSTS

**B**ond premiums are normally very straight-forward, but there a couple of things you should look for to avoid surprises. If a job is going to run longer than 12 or 24 months, most sureties will charge an extra amount of 1% per month for each month over their given time limit. If the warranty period is going to be longer than one year, most sureties will charge an extra amount for each year beyond that one year. If the job is determined to be a design/build project, most sureties will have a differ-

ent, higher premium that they will charge for that additional risk. If you obtain a bond for an annual contract covering an indefinite quantity of work, be sure to understand how the bond costs on that will work for you. It's possible that you could end up with a real surprise if you do more work than the original bond amount during the year. CPA costs are another bond cost to consider. Be sure to talk to your agent so you understand why a compilation, review, or audit might be required for any given period, and if that level of statement will be required in the future. These are some common "gotcha's" that could be more than irritating for you. Give us a call if you have any questions understanding an unusual bond charge.



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### YES! I want:

- An Application for Bonding     A Phone Call from a Surety Professional     A Visit with a Surety Professional

Name \_\_\_\_\_

Company \_\_\_\_\_ Email \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

**CALL (888) 786-BOND (2663) OR FAX TO (888) 718-BOND (2663)**

**If you know someone who would benefit from our newsletter, please let us know. Thank you!**

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City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_