

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 712**

(As Passed the Senate December 9, 1997)

A bill to amend 1905 PA 187, entitled

"An act to insure the payment of subcontractors and wages earned and all materials or labor and certain supplies furnished and used in connection with and consumed in constructing, repairing or ornamenting public buildings and public works,"

by amending section 1 (MCL 570.101), as amended by 1982 PA 10.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~When~~ IF A public ~~buildings~~ BUILDING or
2 other public ~~works are~~ WORK IS about to be built, repaired, or
3 ornamented under contract at the expense of the state ~~,~~ or of
4 any county, city, village, township, or school district ~~thereof,~~
5 ~~it shall be the duty~~ of THE STATE, the board of officers or
6 agents ~~,~~ contracting on behalf of the state, county, city, vil-
7 lage, township, or school district ~~,~~ ~~to~~ SHALL require THE CON-
8 TRACTOR TO FURNISH A GOOD AND sufficient ~~security by~~
9 PERFORMANCE AND PAYMENT bond for the payment by the contractor of

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1 all subcontractors and for the payment for all labor performed,
2 CONTRACT WAGES, CONTRACT BENEFITS, and materials and certain sup-
3 plies furnished and used in the CONSTRUCTION, erection, repair-
4 ing, or ornamenting of the public ~~buildings or works.~~ However,
5 ~~if the~~ BUILDING OR WORK.

6 (2) THE CONTRACTOR SHALL ATTACH TO THE BOND REQUIRED UNDER
7 SUBSECTION (1) A COPY OF THE [INSURER'S] CURRENT MICHIGAN CERTIFI-
8 CATE OF AUTHORITY WHICH IS OBTAINED BY THE CONTRACTOR FROM THE
9 MICHIGAN INSURANCE BUREAU.

10 (3) UPON THE RECEIPT OF A WRITTEN REQUEST BY A SUBCONTRACTOR
11 FOR A COPY OF THE PAYMENT BOND REQUIRED UNDER SUBSECTION (1), THE
12 STATE, COUNTY, CITY, VILLAGE, TOWNSHIP, OR SCHOOL DISTRICT SHALL
13 VERIFY THAT [THE BOND AT THE TIME THE CONTRACT IS AWARDED HAS BEEN
ISSUED BY A SURETY COMPANY WHICH IS AN AUTHORIZED INSURER AS DEFINED
IN SECTION 108 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL
500.108,] AND PROVIDE THE SUB-

14 CONTRACTOR WITH A COPY OF THE BOND. IF THE [
15] STATE, COUNTY, CITY, VILLAGE, TOWNSHIP, OR
16 SCHOOL DISTRICT FAILED TO MAKE THE VERIFICATION REQUIRED BY THIS
17 SUBSECTION [
18] THE STATE, COUNTY, CITY, VILLAGE,
19 TOWNSHIP, OR SCHOOL DISTRICT SHALL BE LIABLE TO THE SAME EXTENT
20 AS A SURETY COMPANY WOULD HAVE BEEN LIABLE HAD THE CONTRACTOR
21 PROVIDED A GOOD AND SUFFICIENT BOND. LIABILITY IS LIMITED TO THE
22 WORK PERFORMED AND MATERIALS AND SUPPLIES FURNISHED 5 OR MORE
23 BUSINESS DAYS AFTER THE DATE OF THE SUBCONTRACTOR'S WRITTEN
24 REQUEST FOR BOND VERIFICATION [HAS BEEN RECEIVED BY THE GOVERNMENTAL
UNIT AT ITS MAIN OFFICE]. A SUBCONTRACTOR MAY REFUSE TO
25 PROVIDE LABOR, MATERIALS, OR SUPPLIES TO A CONTRACTOR THAT HAS
26 FAILED TO PROVIDE A GOOD AND SUFFICIENT BOND AS REQUIRED BY
27 SUBSECTION (1).

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1 (4) AS USED IN THIS SECTION, "GOOD AND SUFFICIENT
2 PERFORMANCE AND PAYMENT BOND" MEANS A BOND THAT AT THE TIME THE
3 CONTRACT IS AWARDED HAS BEEN [ISSUED] BY A SURETY COM-
4 PANY WHICH IS AN AUTHORIZED INSURER AS DEFINED IN SECTION 108 OF
5 THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.108.

6 (5) IF A contractor is a common carrier as defined in sec-
7 tion 3 of ~~Act No. 300 of the Public Acts of 1909, as amended,~~
8 ~~being section 462.3 of the Michigan Compiled Laws~~ 1909 PA 300,
9 MCL 462.3, or the designated operator of a state subsidized rail-
10 road, the contractor may provide an irrevocable letter of credit
11 from a state or national CHARTERED bank or a state or federally
12 chartered savings and loan association OR CREDIT UNION instead of
13 the bond REQUIRED BY SUBSECTION (1).