

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 713**

(As Passed the Senate December 9, 1997)

A bill to amend 1963 PA 213, entitled
"An act to provide a procedure for bonding contractors for public
buildings and public works of governmental units; and to repeal
certain acts and parts of acts,"
by amending sections 1, 3, and 4 (MCL 129.201, 129.203, and
129.204), section 1 as amended by 1982 PA 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) Before any contract ~~—~~ exceeding \$50,000.00
2 for the construction, alteration, or repair of any public
3 building, ~~or~~ public work, or PUBLIC improvement of the state or
4 a county, city, village, township, school district, public educa-
5 tional institution, other political subdivision, public authori-
6 ty, or public agency, ~~hereinafter~~ referred to IN THIS ACT as
7 the "governmental unit", is awarded, THE GOVERNMENTAL UNIT SHALL
8 REQUIRE THAT the proposed contractor, ~~hereinafter~~ referred to
9 IN THIS ACT as the "principal contractor", shall furnish at his

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1 or her own cost to the governmental unit a GOOD AND SUFFICIENT
2 performance ~~bond and a~~ AND payment bond which ~~shall become~~
3 BECOMES binding upon the award of the contract to the principal
4 contractor. ~~However, if the~~

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

14 (3) ~~Neither the~~ THE invitation for bids ~~, nor~~ OR any
15 person acting ~~,~~ or purporting to act ~~,~~ on behalf of the gov-
16 ernmental unit shall NOT require that the ~~bonds~~ BOND REQUIRED
17 BY SUBSECTION (1) be furnished by a particular bank or surety
18 company, ~~or~~ through a particular agent or broker, or through a
19 bank, company, agent, or broker in any particular locality.

20 (4) UPON THE RECEIPT OF A WRITTEN REQUEST BY A SUBCONTRACTOR
21 FOR A COPY OF THE PAYMENT BOND REQUIRED UNDER SUBSECTION (1), THE
22 GOVERNMENTAL UNIT SHALL VERIFY THAT THE BOND [WAS ISSUED BY A
23 SURETY COMPANY AS PROVIDED IN (7)] AND PROVIDE THE SUBCONTRACTOR
WITH A COPY OF THE BOND. IF
24 THE BOND WAS NOT GOOD AND SUFFICIENT AND THE GOVERNMENTAL UNIT
25 FAILED TO MAKE THE VERIFICATION REQUIRED BY THIS SUBSECTION OR
26 FAILED TO NOTIFY THE SUBCONTRACTOR THAT THE BOND WAS NOT GOOD AND
27 SUFFICIENT, THE GOVERNMENTAL UNIT SHALL BE LIABLE TO THE SAME

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1 EXTENT AS A SURETY COMPANY WOULD HAVE BEEN LIABLE HAD THE
2 CONTRACTOR PROVIDED A GOOD AND SUFFICIENT BOND. LIABILITY IS
3 LIMITED TO THE WORK PERFORMED AND MATERIALS AND SUPPLIES FUR-
4 NISHED 5 OR MORE BUSINESS DAYS AFTER THE DATE OF THE [GOVERNMENTAL
UNIT'S RECEIPT OF THE]
5 SUBCONTRACTOR'S WRITTEN REQUEST FOR BOND VERIFICATION. [THE REQUEST
FOR VERIFICATION SHALL BE ADDRESSED TO THE MAIN OFFICE OF THE
GOVERNMENTAL UNIT.]

6 (5) THE PRINCIPAL CONTRACTOR SHALL FURNISH TO THE GOVERNMEN-
7 TAL UNIT A COPY OF THE [INSURER'S] CURRENT MICHIGAN CERTIFICATE OF
8 AUTHORITY WHICH IS OBTAINED BY THE CONTRACTOR FROM THE MICHIGAN
9 INSURANCE BUREAU.

10 (6) A SUBCONTRACTOR MAY REFUSE TO PROVIDE LABOR, MATERIALS,
11 OR SUPPLIES TO A PRINCIPAL CONTRACTOR THAT HAS FAILED TO PROVIDE
12 A GOOD AND SUFFICIENT BOND AS REQUIRED BY SUBSECTION (1).

13 (7) AS USED IN THIS SECTION, "GOOD AND SUFFICIENT PER-
14 FORMANCE AND PAYMENT BOND" MEANS A BOND THAT AT THE TIME THE CON-
15 TRACT IS AWARDED HAS BEEN [ISSUED] BY A SURETY COMPANY
16 WHICH IS AN AUTHORIZED INSURER AS DEFINED IN SECTION 108 OF THE
17 INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.108.

18 Sec. 3. ~~The~~ A payment bond REQUIRED BY SECTION 1 shall be
19 in an amount fixed by the governmental unit but not less than
20 ~~25%~~ 100% of the contract amount ~~solely~~ for the protection of
21 ~~claimants, as defined in section 6,~~ PERSONS supplying labor or
22 materials to the principal contractor or his OR HER
23 subcontractors. ~~in the prosecution of the work provided for in~~
24 ~~the contract.~~

25 Sec. 4. ~~A bond shall be executed by a surety company~~
26 ~~authorized to do business in this state.~~ In the case of a
27 contract of the state or a department, board, commission,

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1 institution, or agency ~~thereof~~ OF THE STATE, THE BONDS OR
2 LETTERS OF CREDIT REQUIRED BY SECTION 1 shall be payable to the
3 people of the state. In the case of all other contracts, the
4 bonds shall be payable to the CONTRACTING governmental unit.