

SUBSTITUTE FOR  
SENATE BILL NO. 712

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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SB 712 as amended December 9, 1997

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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 INSURED'S CURRENT MICHIGAN CERTIFICATE  
8 OF AUTHORITY WHICH IS OBTAINED BY THE CONTRACTOR FROM THE MICHIGAN  
9 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 IS GOOD AND SUFFICIENT AND PROVIDE THE SUB-  
14 CONTRACTOR WITH A COPY OF THE BOND. IF THE BOND WAS NOT GOOD AND  
15 SUFFICIENT AND THE STATE, COUNTY, CITY, VILLAGE, TOWNSHIP, OR  
16 SCHOOL DISTRICT FAILED TO MAKE THE VERIFICATION REQUIRED BY THIS  
17 SUBSECTION OR FAILED TO NOTIFY THE SUBCONTRACTOR THAT THE BOND  
18 WAS NOT GOOD AND SUFFICIENT, 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. 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 PROPERLY EXECUTED 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).