

SUBSTITUTE FOR  
SENATE BILL NO. 713

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

**SB 713, As Passed Senate, December 9, 1997**

Senate Bill No. 713

2

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 IS GOOD AND SUFFI-  
23 CIENT 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

**SB 713, As Passed Senate, December 9, 1997**

SB 713 as amended December 9, 1997

3

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  
5 SUBCONTRACTOR'S WRITTEN REQUEST FOR BOND VERIFICATION.

6 (5) THE PRINCIPAL CONTRACTOR SHALL FURNISH TO THE GOVERNMEN-  
7 TAL UNIT A COPY OF THE INSURED'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 PROPERLY EXECUTED 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,

**SB 713, As Passed Senate, December 9, 1997**

Senate Bill No. 713

4

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.