

STATE OF MICHIGAN  
89TH LEGISLATURE  
REGULAR SESSION OF 1998

Introduced by Senator North

## ENROLLED SENATE BILL No. 713

AN ACT 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:*

Sec. 1. (1) Before any contract exceeding \$50,000.00 for the construction, alteration, or repair of any public building, public work, or public improvement of the state or a county, city, village, township, school district, public educational institution, other political subdivision, public authority, or public agency, referred to in this act as the "governmental unit", is awarded, the governmental unit shall require that the proposed contractor, referred to in this act as the "principal contractor", shall furnish at his or her own cost to the governmental unit a good and sufficient performance and payment bond which becomes binding upon the award of the contract to the principal contractor.

(2) If a principal contractor described in subsection (1) is a common carrier as defined in section 3 of 1909 PA 300, MCL 462.3, or the designated operator of a state subsidized railroad, the principal contractor may provide an irrevocable letter of credit from a state or national chartered bank or a state or federally chartered savings and loan association or credit union instead of the bond required by subsection (1).

(3) The invitation for bids or any person acting or purporting to act on behalf of the governmental unit shall not require that the bond required by subsection (1) be furnished by a particular bank or surety company, through a particular agent or broker, or through a bank, company, agent, or broker in any particular locality.

(4) Upon the receipt of a written request by a subcontractor for a copy of the payment bond required under subsection (1), the governmental unit shall verify that the bond was issued by a surety company as provided in subsection (7) and provide the subcontractor with a copy of the bond. If the bond was not good and sufficient and the governmental unit failed to make the verification required by this subsection or failed to notify the subcontractor that the bond was not good and sufficient, the governmental unit shall be liable to the same extent as a surety company would have been liable had the contractor provided a good and sufficient bond. Liability is limited to the work performed and materials and supplies furnished 5 or more business days after the date of the governmental unit's receipt of the subcontractor's written request for bond verification. The request for verification shall be addressed to the main office of the governmental unit.

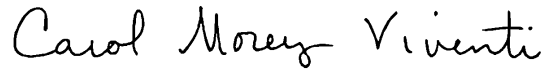
(5) The principal contractor shall furnish to the governmental unit a copy of the insurer's current Michigan certificate of authority which is obtained by the contractor from the Michigan insurance bureau.

(6) A subcontractor may refuse to provide labor, materials, or supplies to a principal contractor that has failed to provide a good and sufficient bond as required by subsection (1).

(7) As used in this section, "good and sufficient performance and payment bond" means a bond that 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.

Sec. 3. A payment bond required by section 1 shall be in an amount fixed by the governmental unit but not less than 100% of the contract amount for the protection of persons supplying labor or materials to the principal contractor or his or her subcontractors.

Sec. 4. In the case of a contract of the state or a department, board, commission, institution, or agency of the state, the bonds or letters of credit required by section 1 shall be payable to the people of the state. In the case of all other contracts, the bonds shall be payable to the contracting governmental unit.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved \_\_\_\_\_

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Governor.