PUBLIC BUILDINGS AND PUBLIC WORKS; BOND OF CONTRACTOR

Act 187 of 1905

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.

History: 1905, Act 187, Eff. Sept. 16, 1905 ;-- Am. 1925, Act 384, Eff. Aug. 27, 1925 ;-- Am. 1927, Act 167, Eff. Sept. 5, 1927

The People of the State of Michigan enact:

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570.101 Building, repairing, or ornamenting public works; bond of contractor required; exceptions.

Sec. 1.

When public buildings or other public works are about to be built, repaired, or ornamented under contract at the expense of the state, or of any county, city, village, township, or school district thereof, it shall be the duty of the board of officers or agents, contracting on behalf of the state, county, city, village, township, or school district, to require sufficient security by bond for the payment by the contractor of all subcontractors and for the payment for all labor performed and materials and certain supplies furnished and used in the erection, repairing, or ornamenting of the public buildings or works. However, if the contractor is a common carrier as defined in section 3 of Act No. 300 of the Public Acts of 1909, as amended, being section 462.3 of the Michigan Compiled Laws, or the designated operator of a state subsidized railroad, the contractor may provide an irrevocable letter of credit from a state or national bank or a state or federally chartered savings and loan association instead of the bond.

History: 1905, Act 187, Eff. Sept. 16, 1905 ;-- CL 1915, 14827 ;-- Am. 1925, Act 384, Eff. Aug. 27, 1925 ;-- CL 1929, 13132 ;-- CL 1948, 570.101 ;-- Am. 1982, Act 10, Imd. Eff. Feb. 17, 1982
Former Law: See Act 94 of 1883, being How., §§ 8411a to 8411c, which was amended by Act 45 of 1885, being CL 1897, §§ 10743 to 10745.

570.102 Notice by subcontractor, materialman or laborer.

Sec. 2.

In the case of a subcontractor, he shall within 60 days after furnishing the last material or supplies or performing the last work covered by his subcontract, serve a written notice in duplicate upon the board of officers or agents contracting on behalf of the state, county, city, village, township or school district as aforesaid, that he is a subcontractor for the doing of some part of such work, which he shall specify in his notice and that he relies upon the security of the bond by this act required to be given by the principal contractor, and the said board of officers or agents shall within 10 days thereafter furnish a copy of such notice to the sureties for the principal contractor: Provided, however, That if such notice is not furnished by the said board of officers or agents within the said 10 days such failure shall in no wise release or impair the obligation of said sureties, and whenever this shall have been done, the said

subcontractor shall be entitled, subject to the rights of the persons with whom he has contracted for labor, materials or supplies to the benefit of the security given by the principal contractor, and to be subrogated to the liens of the persons who have performed labor or furnished materials or supplies for such building, repairs or ornamentation, whom he shall have actually paid, but the subcontractor and the persons who shall have performed labor or furnished materials or supplies to him shall not in the aggregate be entitled to receive larger sums that may be required from the principal contractor under his contract with the subcontractor, nor shall this act be construed to change in any way the contract which may have been made between the principal contractor and the subcontractor, except when such contract shall attempt to relieve the principal contractor as against the demands of those performing labor or furnishing materials or supplies to the subcontractor. All others, excepting those furnishing labor, relying upon the security given by the principal contractor, shall within 60 days after furnishing the last material or supplies, serve a written notice in duplicate upon the board of officers or agents contracting on behalf of the state, county, city, village, township, or school district as aforesaid, that such contractor or subcontractor is indebted to them in a specified amount or for the furnishing of certain specified materials or supplies on account of such contract, and the said board of officers or agents shall within 10 days thereafter furnish a copy of such notice to the sureties for the principal contractor: Provided, however, That if such notice is not furnished by the said board of officers or agents within the said 10 days such failure shall in no wise release or impair the obligations of said sureties.

History: 1905, Act 187, Eff. Sept. 16, 1905 ;-- CL 1915, 14828 ;-- Am. 1925, Act 384, Eff. Aug. 27, 1925 ;-- Am. 1927, Act 167, Eff. Sept. 5, 1927 ;-- CL 1929, 13133 ;-- CL 1948, 570.102

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570.103 Bond of contractor on public works; execution, sureties, conditions.

Sec. 3.

Such bond shall be executed by such contractor to the people of the state of Michigan in such amount and with such sureties as shall be approved by the board of officers or agents acting on behalf of the state, county, city, village, township, or school district as aforesaid, and shall be conditioned for the payment by such contractor to any subcontractor or by any such contractor or subcontractor as the same may become due and payable of all indebtedness which may arise from said contractor to a subcontractor or party performing labor or furnishing materials or supplies or any subcontractor to any person, firm or corporation on account of any labor performed or materials or supplies furnished in the erection, repairing or ornamentation of such building, improvement or works: Provided, however, That the principal contractor shall not be required to make payment to a subcontractor of sums due from the subcontractor to parties performing labor or furnishing materials or supplies, except upon the receipt or the written orders of such parties to pay the sums due them to subcontractors. Such bond shall be deposited with and held by such board of officers or agents for the use of any party interested therein.

History: 1905, Act 187, Eff. Sept. 16, 1905 ;-- CL 1915, 14829 ;-- Am. 1925, Act 384, Eff. Aug. 27, 1925 ;-- CL 1929, 13134 ;-- CL 1948, 570.103

570.104 Bond of contractor on public works; prosecution, recovery.

Sec. 4.

Such bond may be prosecuted and a recovery had at any time within 1 year after the completion and acceptance of the project, by any person, firm or corporation to whom any money shall be due and payable on account of having performed any labor or furnished any materials or supplies in the erection, repairing or ornamentation of any such building or works, in the name of the people of this state for the use and benefit of such person, firm or corporation: Provided, however, That in the case of a suit for the benefit of the subcontractor, he shall be required to allege and prove that he has paid to all parties entitled thereto the full sums due to them for labor, materials or supplies contracted for by him: And provided further, That in no case brought under the provisions of this act shall the people of this state be liable for costs.

History: 1905, Act 187, Eff. Sept. 16, 1905 ;-- CL 1915, 14830 ;-- Am. 1925, Act 384, Eff. Aug. 27, 1925 ;-- CL 1929, 13135 ;-- CL 1948, 570.104

570.105 Bond of contractor on public works; definitions.

Sec. 5.

The words "materials" and "supplies" as used herein shall include coal, wood, form lumber, gasoline, kerosene and lubricating and fuel oils necessarily used in connection with or consumed in constructing, repairing and ornamenting public buildings and public works, and the term "labor" as used herein shall include the hauling other than by steam or electric railway to or away from the public buildings or other public works being built, repaired or ornamented, any refuse, materials or dirt accumulated or used in connection with or consumed in the construction, repairing or ornamentation of such public buildings or other public works.

History: Add. 1925, Act 384, Eff. Aug. 27, 1925 ;-- CL 1929, 13136 ;-- CL 1948, 570.105

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