

CHAPTER 574

BONDS, FINES, FORFEITURES

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574.26 CONTRACTORS' BONDS FOR PUBLIC WORK.

[For text of subds 1 and 1a, see M.S.2000]

Subd. 2. Terms. Except as provided in sections 574.263 and 574.264 or if the amount of the contract is \$75,000 or less, a contract with a public body for the doing of any public work is not valid unless the contractor gives (1) a performance bond to the public body with whom the contractor entered into the contract, for the use and benefit of the public body to complete the contract according to its terms, and conditioned on saving the public body harmless from all costs and charges that may accrue on account of completing the specified work, and (2) a payment bond for the use and benefit of all persons furnishing labor and materials engaged under. or to perform the contract, conditioned for the payment, as they become due, of all just claims for the labor and materials. Reasonable attorneys' fees, costs, and disbursements may be awarded in an action to enforce claims under the act if the action is successfully maintained or successfully appealed.

[For text of subd 3, see M.S.2000]

History: 1Sp2001 c 10 art 2 s 83

574.31 LIMIT OF TIME TO BRING ACTION.

[For text of subd 1, see M.S.2000]

Subd. 2. Claims on payment bonds. (a) In the event of a claim on a payment bond by a person furnishing labor and materials, no action shall be maintained on the payment bond unless, within 120 days after completion, delivery, or provision by the person of its last item of labor and materials, for the public work, the person serves written notice of claim under the payment bond personally or by certified mail upon the surety that issued the bond and the contractor on whose behalf the bond was issued at their addresses as stated in the bond specifying the nature and amount of the claim and the date the claimant furnished its last item of labor and materials for the public work. The addresses of the contractor and the surety listed on the bond must be addresses at which the companies are authorized to accept service of the notice of the claim. If an agent or attorney-in-fact is authorized to accept service of notice of the claim for the contractor or surety, that fact must be expressly stated in the bond along with the address of the agent or attorney-in-fact at which service of the notice of the claim can be made. For the purpose of this section, notice is sufficient if served personally or via certified mail to the addresses of the contractor and surety listed on the bond. The form of notice is sufficient if it is substantially as follows:

NOTICE OF CLAIM ON PAYMENT BOND FOR PUBLIC WORK

TO:
(Surety that issued payment bond)

and
(The contractor on whose behalf the bond was issued)

NOTICE IS HEREBY GIVEN that the undersigned claimant has a claim against the above named surety for labor and materials furnished by the undersigned for the public work described as follows:

.....
 (Description of the public work)
 The labor and materials were furnished under a
 contract or agreement with

.....
 (Name and address of contractor or supplier requesting
 labor and materials from the claimant)
 The nature of the labor and materials furnished is as
 follows:

.....
 The amount of the claim is:

.....
 The date the claimant last furnished labor and materials
 to this public work is the day of

.....
 Claimant seeks payment of the claim according to the
 law.

.....
 Claimant
 Address

STATE OF
 ss.
 COUNTY OF

..... being duly sworn on oath says
 that is of the claimant named above and
 has knowledge of the claim and that the claim is correct,
 and no part of the claim has been paid.

Signed and sworn to before me
 on,
 by (Notary Seal)

Notary Public

(b) If the contractor providing the payment bond fails to comply with the filing requirements of section 574.28 by failing to state both its address and the address of the surety providing the bond, then a claimant under the bond need not provide either the surety or the contractor written notice of its claim under paragraph (a).

(c) An action to enforce a claim against the surety under the bond must be commenced within one year from the date of completion, delivery, or provision by the claimant of its last item of labor and materials for the public work stated in its notice of claim. If no notice of claim was required because the contractor providing the bond failed to comply with the requirements of section 574.28, then any action under the bond must be commenced within one year from the actual date of completion, delivery, or provision by the claimant of its last item of labor and materials for the public work. Any other person having a cause of action on a payment bond may be admitted, on motion, as a party to the action, and the court shall determine the rights of all parties. If the amount realized on the bond is insufficient to discharge all the claims in full, the amount must be prorated among the parties.

(d) The claimant can extend the time within which to bring an action to enforce a claim under the bond to beyond that specified in paragraph (c) either by: (1) written stipulation between the claimant and surety stating the extended deadline and executed by both parties before the expiration of one year from the actual date of completion, delivery, or provision by the claimant of its last item of labor and materials for the

public work; or (2) written notice extending by one year the deadline specified in paragraph (c) sent by the claimant to the surety via certified mail 90 days before the expiration of the deadline specified in paragraph (c), which notice is not objected to in a return written notice sent by the surety to the claimant via certified mail within 30 days after the surety's receipt of claimant's notice. If a claimant's payment is not yet contractually due within one year from the actual date of completion, delivery, or provision by the claimant of its last item of labor and materials, the court shall continue and not dismiss the action until the payment is due.

History: 2001 c 52 s 1

574.34 FINES, HOW DISPOSED OF.

Subdivision 1. **General.** Fines and forfeitures not specially granted or appropriated by law shall be paid into the treasury of the county where they are incurred, except in a county in a judicial district under section 480.181, subdivision 1, paragraph (b), the fines and forfeitures must be deposited in the state treasury and credited to the general fund.

[For text of subd 2, see M.S.2000]

History: 1Sp2001 c 5 art 5 s 20

NOTE: The amendment to subdivision 1 by Laws 2001, First Special Session chapter 5, article 5, section 20, is effective July 1, 2003, in the second and fourth districts; July 1, 2004, in the first and third districts; and July 1, 2005, in the sixth and tenth districts. Laws 2001, First Special Session chapter 5, article 5, section 20, the effective date.

574.39 SURETY BONDS; PUBLIC ENTITIES.

The state or a county, town, home rule charter or statutory city, school district, or other municipal corporation or political subdivision of this state shall not require a contractor to procure a surety bond from a particular insurance or surety company, agent, or broker on a public improvement which is or has been competitively bid or negotiated. Nothing in this section prohibits a public entity from requiring customized features in its surety bond coverage as considered appropriate and necessary by the public entity or from requiring that the insurer issuing the bond have a minimum financial rating as specified by the public entity.

History: 2001 c 76 s 1