
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2663 Session of
1990

INTRODUCED BY ITKIN, JOHNSON, MICHLOVIC, WILLIAMS, LAUGHLIN,
BATTISTO, LINTON, McHALE, HUGHES, ADOLPH, D. R. WRIGHT,
JAMES, MORRIS, CALTAGIRONE, FAIRCHILD, KASUNIC, MAINE, VROON,
TANGRETTI, RYBAK, TRELLO, FARGO, BILLOW, EVANS, MARSICO,
PRESTON, BELARDI, McCALL, PISTELLA, TIGUE, WAMBACH AND
CAPPABIANCA, JUNE 11, 1990

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 11, 1990

AN ACT

1 Providing that payments to contractors under contracts for the
2 erection, construction, completion, alteration or repair of
3 public buildings or other public work or public improvement
4 are impressed with a trust for payment to persons furnishing
5 labor or material; and providing penalties.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Contracting body." Any officer, employee, authority, board,
13 bureau, commission, department, agency or institution of the
14 Commonwealth or any State-aided institution, or any county,
15 city, district, municipal corporation, municipality, municipal
16 authority, political subdivision, school district, educational
17 institution, borough, incorporated town, township, poor

1 district, county institution district, other incorporated
2 district or other public instrumentality, which has authority to
3 contract for the erection, construction, completion, alteration
4 or repair of any public building or other public work or public
5 improvement, including highway and bridge work.

6 "Contractor." The term includes, but is not limited to, an
7 architect, engineer, real estate broker or agent, subcontractor
8 or other person, who enters into any contract with a contracting
9 body for the erection, construction, completion, alteration or
10 repair of any public building or other public work or public
11 improvement, including highway and bridge work, or for additions
12 to a public building, by such contractor, or, for the sale to
13 the contracting body of any lands and premises, whether owned by
14 such contractor or another, upon which such contractor
15 undertakes to erect, construct, complete, alter or repair any
16 public building or addition to a public building.

17 "Moneys or funds." The term includes, but is not limited to,
18 the entire amount of all moneys or funds received by a
19 contractor, as defined in this section, who, being the owner of
20 the legal title to lands and premises, receives, in connection
21 with a contract for the sale thereof and for the erection,
22 construction, completion, alteration or repair of any building
23 or addition thereon by such contractor, any moneys or funds by
24 way of a loan or advance upon the security of such lands and
25 premises for the purpose of such erection, construction,
26 completion, alteration or repair, or who receives from the
27 contracting body or vendee any deposit or sum of money on
28 account of the purchase or contract price, and no part of such
29 moneys or funds shall be deemed or construed applicable to the
30 payment of the cost or selling price of land, unless that part

1 of the contract price or selling price applicable to cost or
2 selling price of land, be specifically so stated in the
3 contract.

4 "State-aided institution." The term includes any institution
5 which receives State funds directly or indirectly for the
6 erection, construction, completion, alteration or repair of its
7 buildings.

8 Section 2. Payments to contractor impressed with trust.

9 All moneys or funds received by a contractor in connection
10 with a contract with a contracting body for the erection,
11 construction, completion, alteration or repair of any public
12 building or other public work or public improvement, including
13 highway and bridge work or for additions to a public building
14 and all moneys or funds received by a contractor in connection
15 with a contract for the sale of land and the erection,
16 construction, completion, alteration or repair of any public
17 building or addition thereon, shall be trust funds in the hands
18 of the contractor.

19 Section 3. Use or application of money received by contractor.

20 No contractor, or agent of a contractor, shall pay out, use
21 or appropriate any moneys or funds described in section 2 until
22 they have first been applied to the payment of the full amount
23 of all moneys due and owing by the contractor to all persons,
24 including surveyors and engineers, furnishing labor or material,
25 including fuel, for the erection, construction, completion,
26 alteration or repair of, or for additions to, such building,
27 whether or not the labor or material entered into or became a
28 component part of any such building or addition and whether or
29 not the same were furnished on the credit of such building or
30 addition or on the credit of such contractor.

1 Section 4. Contractor's failure to use or apply money in
2 accordance with section 3.

3 Failure of a contractor, or of an agent of a contractor, to
4 pay or cause to be paid, in full or pro rata, the lawful claims
5 of all persons, firms, association of persons or corporations,
6 including surveyors and engineers, furnishing labor or material,
7 including fuel, as required by section 3, within 30 days after
8 the receipt of any moneys or funds for the purposes of section
9 2, shall be prima facie evidence of the payment, use or
10 appropriation of such trust moneys or funds by the contractor in
11 violation of the provisions of this act.

12 Section 5. Penalties.

13 (a) Fine.--Whoever, being a contractor, or any agent of a
14 contractor, pays out, uses or appropriates, or consents to the
15 paying out, use or appropriation of any moneys or funds received
16 for any of the purposes specified in section 2, prior to paying
17 in full or pro rata to the extent of the moneys or funds so
18 received, all the lawful claims of all persons, including
19 surveyors and engineers, furnishing labor materials, including
20 fuel, as prescribed by section 3, shall, upon conviction, be
21 sentenced to pay a fine of not more than twice the amount owed
22 or to imprisonment for not more than three years, or both.

23 (b) Future contracts barred.--A person convicted of a
24 violation of this act shall thereafter be barred from being a
25 party to or having a pecuniary interest in any contract with a
26 contracting body for the erection, construction, completion,
27 alteration or repair of any public building or other public work
28 or public improvement, including highway and bridge work, or for
29 additions to a public building.

30 Section 6. Effective date.

1 This act shall take effect in 60 days.