

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 733 Session of
1989

INTRODUCED BY CORMAN, RHOADES, STOUT AND AFFLERBACH,
MARCH 21, 1989

REFERRED TO LOCAL GOVERNMENT, MARCH 21, 1989

AN ACT

1 Amending the act of December 20, 1967 (P.L.869, No.385),
2 entitled "An act establishing a uniform and mandatory system
3 governing the requirement of bonds to be furnished by
4 contractors in the prosecution of any public building, or
5 other public work or public improvement, including road work;
6 the rights and remedies of persons furnishing labor or
7 material in the prosecution of such public building, public
8 work or public improvement, including road work; procedure in
9 connection with suits on payment bonds; rights of persons
10 furnishing labor or materials to a copy of bond; prescribing
11 penalties; and repealing other prior acts or provisions
12 thereof inconsistent herewith," providing for financial
13 security to protect certain contracting bodies.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The act of December 20, 1967 (P.L.869, No.385),
17 known as the Public Works Contractors' Bond Law of 1967, is
18 amended by adding a section to read:

19 Section 3.1. (a)--Before any contract exceeding five
20 thousand dollars (\$5,000) for the construction, reconstruction,
21 alteration or repair of any public building or other public work
22 or public improvement, including highway work, of any
23 contracting body is awarded to any prime contractor, such

contractor shall furnish to the contracting body the following financial security, which shall become binding upon the awarding of said contract to such contractor:

(1) Any financial security, acceptable to and approved by the contracting body, including, but not limited to, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions, equal to one hundred percent of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. Such financial security shall be solely for the protection of the contracting body which awarded the contract.

(2) Any financial security, acceptable to and approved by the contracting body, including, but not limited to, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions, equal to one hundred percent of the contract amount. Such financial security shall be solely for the protection of claimants supplying labor or materials to the prime contractor to whom the contract was awarded, or to any of his subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the work. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

(b) Any bond or other financial security under the provisions of this act shall be executed by one or more surety

1 companies or Federal or Commonwealth chartered lending
2 institutions, chosen by the party posting the financial security
3 and acceptable to the contracting body, legally authorized to do
4 business in the Commonwealth of Pennsylvania.

5 (c) A duplicate copy of each financial security, including
6 bonds, shall be filed in the office of the contracting body
7 which awarded the contract for which such bonds or financial
8 security were given.

9 (d) For purposes of this section, the phrase "contracting
10 body" shall mean any city, borough, incorporated town, township
11 home-rule municipality and any authority formed under the act of
12 May 2, 1945 (P.L.382, No.164), known as the "Municipality
13 Authorities Act of 1945."

14 (e) For the contracting body as defined in subsection (d),
15 the provisions of this section supersede the provisions of
16 section 3 of this act.

17 Section 2. This act shall take effect in 60 days.