

**2016 -- S 2229 SUBSTITUTE A**

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LC003913/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2016**

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A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS - CONTRACTORS' BONDS

Introduced By: Senators McCaffrey, Doyle, Miller, Jabour, and Lynch Prata

Date Introduced: January 27, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 37-12-1 and 37-12-3 of the General Laws in Chapter 37-12  
2 entitled "Contractors' Bonds" are hereby amended to read as follows:  
3           **37-12-1. Contractors required to give bond -- Terms and conditions.** -- Every person  
4 (which word for the purposes of this chapter shall include a copartnership, a number of persons  
5 engaged in a joint enterprise, or a corporation), before being awarded a contract by the  
6 department of transportation or by the department of administration, as the case may be, and  
7 every person awarded such a contract as a general contractor or construction or project manager  
8 for the construction, improvement, completion, or repair of any public road or portion thereof or  
9 of any bridge in which the contract price shall be in excess of fifty thousand dollars (\$50,000), or  
10 for a contract for the construction, improvement, completion, or repair of any public building, or  
11 portion thereof, shall be required to furnish to the respective department a bond of that person to  
12 the state, with good and sufficient surety or sureties (hereafter in this chapter referred to as  
13 surety), acceptable to the respective department, in a sum not less than fifty percent (50%) and  
14 not more than one hundred percent (100%) of the contract price, conditioned that the contractor,  
15 principal in the bond, the person's executors, administrators, or successors, shall in all things, well  
16 and truly keep and perform the covenants, conditions, and agreements in the contract, and in any  
17 alterations thereof made as therein provided, on the person's part to be kept and performed, at the  
18 time and in the manner therein specified, and in all respects according to their true intent and  
19 meaning, and shall indemnify and save harmless the state, the respective department, and all of its

1 officers, agents, and employees, as therein stipulated, and shall also promptly pay for all such  
2 labor performed or furnished, [together with penalties assessed pursuant to §37-13-14.1\(b\)](#), and for  
3 all such materials and equipment furnished, (which as to equipment shall mean payment of the  
4 reasonable rental value, as determined by the respective department, of its use during the period  
5 of its use), as shall be used in the carrying on of the work covered by the contract, or shall see that  
6 they are promptly paid for, whether or not the labor is directly performed for or furnished to the  
7 contractor or is even directly performed upon the work covered by the contract, and whether or  
8 not the materials are furnished to the contractor or become component parts of the work, and  
9 whether or not the equipment is furnished to the contractor or even directly used upon the work.  
10 The bond shall contain the provisions that it is subject to all such rights and powers of the  
11 respective department and such other provisions as are set forth in the contract and the plans,  
12 specifications, and proposal incorporated by reference in the contract, and that no extension of the  
13 time of performance of the contract or delay in the completion of the work thereunder or any  
14 alterations thereof, made as therein provided, shall invalidate the bond or release the liability of  
15 the surety thereunder. Waiver of the bonding requirements of this section is expressly prohibited.

16 **37-12-3. Remedies of creditors and state -- Priority of claims.** -- The remedy on the  
17 bond shall be by a civil action brought in the superior court for the counties of Providence and  
18 Bristol and in any suit brought on the bond the rights of the state shall be prior to those of all  
19 creditors. [These rights shall include penalties, assessed under §37-13-14.1\(b\) for nonpayment or](#)  
20 [late payment of wages due.](#) The rights of persons who shall have performed labor as aforesaid  
21 shall be prior to the rights of all other creditors, and there shall be no priorities among laborers or  
22 among other creditors under the bond. The state, either after having recovered a judgment against  
23 the contractor on the contract or without having recovered a judgment, may bring a suit on the  
24 bond against the contractor and surety on the bond, and may join as parties defendant in the suit  
25 any persons claiming to have rights under the bond as creditors; and, if it has not brought such a  
26 suit, it may at any time before a final and conclusive decree, intervene and become a party in any  
27 suit brought, as hereafter provided in this chapter, by any person claiming to be a creditor under  
28 the bond.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would expand the penalties which public works contractors can be assessed for  
2 failing to properly pay persons for the services they provide to them.

3           This act would take effect upon passage.

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