

## No. 2000-131

## AN ACT

## HB 1164

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

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

Section 1. Section 3.1 of the act of December 20, 1967 (P.L.869, No.385), known as the Public Works Contractors' Bond Law of 1967, added December 17, 1990 (P.L.694, No.171), is amended to read:

Section 3.1. (a)—Before any contract exceeding [**five thousand dollars (\$5,000)**] *ten thousand dollars (\$10,000)* for the construction, reconstruction, alteration or repair of any public building or other public work or public improvement, including highway work, of any 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 companies or Federal or Commonwealth chartered lending institutions, chosen by the party posting the financial security and acceptable to the contracting body, legally authorized to do business in the Commonwealth of Pennsylvania.

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

(d) For purposes of this section, the phrase "contracting body" shall mean any county, school district, intermediate unit, area vocational-technical school, city, borough, incorporated town, township, home-rule municipality and any authority formed under the act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."

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

*(f) In the case of contracts of ten thousand dollars (\$10,000) or less, nothing in this section shall be construed as preventing a contracting body, prior to awarding a contract for the construction, reconstruction, alteration or repair of any public building or other public work or public improvement, including highway work, from requiring a prime contractor to furnish financial security in accordance with subsection (a).*

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

APPROVED—The 20th day of December, A.D. 2000.

THOMAS J. RIDGE