

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Dietz**

A Bill

ACT 1061 OF 1993
HOUSE BILL 2142

For An Act To Be Entitled

8 "AN ACT TO AMEND ACT 190 OF 1993 TO MAKE THE SAME OPTIONAL
9 WITH GENERAL CONTRACTORS; AND FOR OTHER PURPOSES."

Subtitle

12 "TO AMEND ACT 190 OF 1993 TO MAKE THE SAME OPTIONAL WITH
13 GENERAL CONTRACTORS."

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

17 SECTION 1. Section 1 of Act 190 of 1993 is amended to read as follows:

18 "SECTION 1. If required by the general contractor, each subcontractor
19 must provide the general contractor with a payment and performance bond made
20 by a surety company qualified under Arkansas Code §22-9-401, et seq., or a
21 cash bond in a sum equal to the full amount of the subcontractor_s bid on a
22 portion of a public works contract when:

23 (1) the subcontractor is the low responsible bidder for that portion of
24 the contract;

25 (2) the State, pursuant to Arkansas Code §22-9-204, requires the
26 general contractor to list the subcontractor in the general contractors bid;
27 and

28 (3) the work value of the subcontractor_s bid is in excess of fifty
29 thousand dollars (\$50,000)."

31 SECTION 2. Section 2 of Act 190 of 1993 is amended to read as follows:

32 "SECTION 2. (a) If the general contractor requires the subcontractor to
33 provide a bond, the subcontractor shall provide the bond to the general
34 contractor within five (5) days after the award of the contract by the general
35 contractor to the subcontractor.

36 (b) If the subcontractor fails to provide a payment and performance

1 bond when required by the general contractor, the subcontractor shall lose the
2 bid and shall pay to the general contractor a penalty equivalent to ten (10)
3 percent of the subcontractor_s bid or the difference between the low bid and
4 the next responsible bid and the next responsible low bid, whichever is less,
5 plus cost of recovery of the penalty including attorney fees. The purpose of
6 this section is to compensate the general contractor for the difference
7 between the low bid and the next responsible low bid.

8 (c) The general contractor may enforce this act by a civil action in
9 circuit court."

10

11 SECTION 3. All provisions of this act of a general and permanent nature
12 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
13 Revision Commission shall incorporate the same in the Code.

14

15 SECTION 4. If any provision of this act or the application thereof to
16 any person or circumstance is held invalid, such invalidity shall not affect
17 other provisions or applications of the act which can be given effect without
18 the invalid provision or application, and to this end the provisions of this
19 act are declared to be severable.

20

21 SECTION 5. All laws and parts of laws in conflict with this act are
22 hereby repealed.

23

24

APPROVED: 04/12/93

26

27

28

29

30

31

32

33

34

35