

1 **State of Arkansas**
2 **78th General Assembly**
3 **First Extraordinary Session, 1992**
4 **By: Senator Scott**
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Call Item
A Bill ACT 37 OF 1992
SENATE BILL 8

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8 **For An Act To Be Entitled**

9 "AN ACT TO AMEND VARIOUS SECTIONS OF SUBCHAPTER 4 OF TITLE
10 17, CHAPTER 22 OF THE ARKANSAS CODE OF 1987 ANNOTATED
11 REGARDING CONTRACTORS BONDS TO SIMPLIFY THE SURETY BONDING
12 REQUIREMENT AND TO MAKE THE BOND A REQUIREMENT FOR
13 LICENSURE BY THE CONTRACTOR'S LICENSING BOARD; TO REPEAL
14 ARKANSAS CODE §§ 17-22-405 AND 17-22-407; AND FOR OTHER
15 PURPOSES."

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

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18 SECTION 1. Arkansas Code § 17-22-403 is hereby amended to read as
19 follows:

20 "17-22-403. Liability of customer.

21 In the event the contractor fails to honor its financial obligations to
22 the State of Arkansas, any city, county, school district, state agency, or
23 other political subdivision of the state, the customer for whom the work was
24 being performed shall be responsible for all financial obligations of the
25 contractor to the State of Arkansas, or any city, county, school district,
26 state agency, or other political subdivision of the state, on that customer's
27 project provided that the customer receives written notice of the contractor's
28 failure to comply with this subchapter prior to final payment to the
29 contractor."

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31 SECTION 2. Arkansas Code § 17-22-404 is hereby amended to read as
32 follows:

33 "17-22-404. Bond - Filing, terms.

34 (a) Before commencing work or undertaking to perform any services or
35 duties in the state, a contractor shall file with the Contractor's Licensing
36 Board as the depository agency, a surety bond of a surety authorized to do

1 business in this state or a cash bond. The bond shall be a condition of
2 licensure and a contractor's license shall not be released until the bond has
3 been properly filed.

4 (b) The bond shall be:

5 (1) In a penal sum of ten thousand dollars (\$10,000.00);

6 (2) Payable to the State of Arkansas;

7 (3) Conditioned on the contractor complying with the tax laws of
8 the state of Arkansas, and when applicable, any city, county, school district,
9 state agency, or other political subdivision of the state, the Arkansas
10 Employment Security Act, §§ 11-10-101 et seq., the Workers' Compensation Law,
11 §§ 11-9-101 et seq. and the provisions of this subchapter."
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13 SECTION 3. Arkansas Code § 17-22-406 is hereby amended to read as
14 follows:

15 "17-22-406. Notice of bond cancellation.

16 (a) Notice of bond cancellation shall be given to the Contractor's
17 Licensing Board in writing sixty (60) days prior to cancellation. The
18 Contractor's Licensing Board shall notify the Department of Finance and
19 Administration, the Employment Security Division, and the Workers'
20 Compensation Commission of the notice of cancellation. It shall be the
21 responsibility of each governmental agency to make any claims against the bond
22 in accordance with state law for collection of any taxes, premiums,
23 contributions, penalties, interest, or fines within the statute of limitations
24 of the appropriate state law.

25 (b) A contractor's license that has become invalid due to bond
26 cancellation may be re-instated upon receipt of proper replacement bond."
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28 SECTION 4. Arkansas Code § 17-22-408 is hereby amended to read as
29 follows:

30 "17-22-408. Failure to comply - Penalties - Enforcement.

31 (a) The fact that a contractor is performing or has performed work in
32 Arkansas and compliance as required by this subchapter has not been met shall
33 constitute prima facie evidence of failure to comply.

34 (b) Upon notice to the contractor and a hearing thereon if requested by
35 the contractor or if deemed appropriate by the board or any committee thereof,

1 should it be determined that a violation exists, the board or committee may
2 assess a penalty for non-compliance in a sum not to exceed five percent (5%)
3 of the value of the contract performed, and upon a finding of a second or
4 subsequent violation, the contractor may be assessed a penalty equal to ten
5 percent (10%) of the value of the contract performed. Further, any contractor
6 found in violation for a second or subsequent violation of this subchapter may
7 lose its contractors license for a period of one (1) year. The board or
8 committee may also issue an order to cease and desist the work pending
9 compliance.

10 (c) Failure of a contractor to comply with the provisions of this
11 subchapter shall be grounds for revocation of any license issued to the
12 contractor by the Contractors Licensing Board.

13 (d) Enforcement of the bond filing requirements contained herein shall
14 be the responsibility of the Contractors Licensing Board.

15 (e) The board shall have the power to make such rules and
16 regulations for enforcement as it may consider appropriate and not in conflict
17 with Arkansas law."

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19 SECTION 5. All provisions of this act of general and permanent nature
20 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
21 Revision Commission shall incorporate the same in the Code.

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23 SECTION 6. If any provisions of this act or the application thereof to
24 any person or circumstance is held invalid, the invalidity shall not affect
25 other provisions or applications of the act which can be given effect without
26 the invalid provisions or application, and to this end the provisions of this
27 act are declared to be severable.

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29 SECTION 7. (a) Arkansas Code of 1987 Annotated §§ 17-22-405 and 17-22-
30 407, as amended by Sections 5 and 7 of Act 783 of 1991, are hereby repealed.

31 (b) All other laws and parts of laws in conflict with this act are
32 hereby repealed.

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34 SECTION 8. Emergency. It is hereby found and determined by the
35 Seventy-Eighth General Assembly of the State of Arkansas meeting in the First

1 Extraordinary Session of 1992 that the changes in bonding requirements for
2 licensed contractors in Arkansas made by Act 783 of 1991 have placed a
3 significant burden on all contractors, that this additional bond requirement
4 has adversely affected the contracting and construction business the State of
5 Arkansas by increasing their costs, and therefore changes must be made in
6 these new bonding requirements to relieve this costly burden on the
7 construction business in Arkansas. Therefore, in order to remedy this
8 significant cost burden on the construction industry, an emergency is hereby
9 declared to exist, and this act being necessary for the immediate preservation
10 of the public peace, health, and safety, shall be in full force and effect
11 from and after its passage and approval.

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APPROVED: 3-11-92

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