

The Law Offices of David Bransdorfer • 8102 Fulton Street East • Ada, Michigan 49301
Phone: (616) 682-5155 • Email: info@bransdorfer.net

[HOME](#) | [eLAW LIBRARY](#) | [FAQ ABOUT SURETY BONDS](#) | [FAQ SOBRE AVALES](#) | [50-STATE LITTLE MILLER ACT LINKS](#)
| [ARKANSAS CODE](#)

Notice Regarding Citation of these Laws

[Forward to A.C. § 22-9-403](#) > [§ 22-9-404](#) > [§ 22-9-405](#)

The Arkansas "Little Miller Act"

**Arkansas Statutes, Title 22, Public Property, Chapter 9, Public Works, Subchapter 4,
Contractors' Bonds,
Sections 22-9-401 through 22-9-405**

Copyright © 2010 by the State of Arkansas. All rights reserved.

22-9-401. Coverage.

(a) All surety bonds required by the State of Arkansas or any subdivisions thereof by any county, municipality, school district, or other local taxing unit, or by any agency of any of the foregoing for the repair, alteration, construction, or improvement of any public works, including, but not limited to, buildings, levees, sewers, drains, roads, streets, highways, and bridges shall be liable on all claims for labor and materials entering into the construction, or necessary or incident to or used in the course of construction, of the public improvements.

(b) Claims for labor and materials shall include, but not be limited to, fuel oil, gasoline, camp equipment, food for workers, feed for animals, premiums for bonds and liability and workers' compensation insurance, rentals on machinery, equipment, and draft animals, and taxes or payments due the State of Arkansas or any political subdivision thereof which shall have arisen on account of, or in connection with, wages earned by workers on the project covered by the bond.

22-9-402. Authorized bonding companies — Agents.

(a) All bonds enumerated in § 22-9-401 and bid bonds enumerated in § 19-4-405 shall be made by surety companies which have qualified and are authorized to do business in the State of Arkansas.

(b)(1) The bonds shall be executed by a resident or nonresident agent.

(2) The resident or nonresident agent shall:

(A) Be licensed by the Insurance Commissioner to represent the surety company executing the bond; and

(B) File with the bond the power of attorney of the agent to act on behalf of the bonding company.

22-9-403. Statutory liability as integral part of bond — Limitation of action.

(a) The liability imposed by § 22-9-401 on any bond furnished by a public works contractor shall

be deemed an integral part of the bond, whether or not the liability is explicitly set out or assumed therein.

(b)(1) No action shall be brought on a bond after one (1) year from the date final payment is made on the contract, nor shall an action be brought outside the State of Arkansas.

(2) However, with respect to public works contracts where final approval for payment is given by the Arkansas Building Authority or by an institution of higher education exempt from construction review and approval by the authority, all persons, firms, associations, and corporations having valid claims against the bond may bring an action on the bond against the corporate surety, provided that no action shall be brought on the bond after twelve (12) months from the date on which the authority or the public institution of higher education approves final payment on the state contract, nor shall any action be brought outside the State of Arkansas in accordance with § 18-44-503.

22-9-404. Subcontractor bonds.

(a)(1) If required by the general contractor, each subcontractor must provide the general contractor with a payment and performance bond made by a surety company qualified under § 22-9-401 *et seq.*, or a cash bond in a sum equal to the full amount of the subcontractor's bid on a portion of a public works contract when:

(A) The subcontractor is the low responsible bidder for that portion of the contract;

(B) The state, pursuant to § 22-9-204, requires the general contractor to list the subcontractor in the general contractor's bid; and

(C) The work value of the subcontractor's bid is in excess of fifty thousand dollars (\$50,000).

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

(b) If the subcontractor fails to provide a payment and performance bond when required by the general contractor, the subcontractor shall lose the bid and shall pay to the general contractor a penalty equivalent to ten percent (10%) of the subcontractor's bid or the difference between the low bid and the next responsible bid and the next responsible low bid, whichever is less, plus cost of recovery of the penalty, including attorney's fees. The purpose of this section is to compensate the general contractor for the difference between the low bid and the next responsible low bid.

(c) The general contractor may enforce this section by a civil action in circuit court.

(d) The provisions of this section shall not apply to contracts awarded by the State Highway Commission for construction or maintenance of public highways, roads, or streets.

22-9-405. Prohibition on directed suretyship.

(a) It is unlawful for any contracting body referenced in § 22-9-401 or any person acting on behalf of such contracting body to require a bidder or contractor to obtain or procure any surety bond from any particular insurance company or surety company, agent, or broker or to include surety bonds in an owner-controlled insurance program.

(b) Any person who violates the provisions of this section is guilty of a Class A misdemeanor.

[Back to A.C. § 22-9-401](#) < [§ 22-9-402](#) < [§ 22-9-403](#) < [§ 22-9-404](#)

[HOME](#) | [eLAW LIBRARY](#) | [FAQ ABOUT SURETY BONDS](#) | [FAQ SOBRE AVALES](#) | [50-STATE LITTLE MILLER ACT LINKS](#)
| [ARKANSAS CODE](#)

Website and compilation © 2010 The Law Offices of David Bransdorfer • 8102 Fulton Street East • Ada, Michigan 49301
Phone: (616) 682-5155 • Email: info@bransdorfer.net • No claim to government or other third-party works. All rights reserved.

The above statutory text was last reviewed for accuracy on October 8, 2010.