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Notice Regarding Citation of these Laws

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The California "Little Miller Act"

California Statutes, Civil Code, Title 15, Works of Improvement, Chapter 6, Payment Bond for Public Works, Sections 3247 through 3252

Cal. Civ. Code §§ 3247–3252

3247. (a) Every original contractor to whom is awarded a contract by a public entity, except as provided in subdivision (d) of Section 7103 of the Public Contract Code, involving an expenditure in excess of twenty-five thousand dollars (\$25,000) for any public work shall, before entering upon the performance of the work, file a payment bond with and approved by the officer or public entity by whom the contract was awarded. A public entity shall state in its call for bids for any such contract that a payment bond is required in the case of such an expenditure.

(b) A payment bond filed and approved in accordance with this section shall be sufficient to enter upon the performance of work under a duly authorized contract which supplements the contract for which such payment bond was filed, if the requirement of a new bond is waived by the public entity.

(c) For purposes of this section, providers of architectural, engineering, and land surveying services pursuant to a contract with a public entity for any public work shall not be deemed an original contractor and shall not be required to post or file the payment bond required in subdivisions (a) and (b). This subdivision shall apply to all contracts entered into subsequent to January 1, 1971. The amendment to this section made during the 1980 portion of the 1979-80 Regular Session of the Legislature by Chapter 293 of the Statutes of 1980, does not constitute a change in, but is declaratory of, existing law.

3248. In order to be approved, the payment bond shall satisfy all of the following requirements:

(a) The bond shall be in a sum not less than one hundred percent of the total amount payable by the terms of the contract.

(b) The bond shall provide that if the original contractor or a subcontractor fails to pay (1) any of the persons named in Section 3181, (2) amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or (3) for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to the work and labor, that the sureties will pay for the same, and also, in case suit is brought upon the bond, a reasonable attorney's fee, to be fixed by the court. The original contractor may require of the subcontractors a bond to indemnify the original contractor for any loss sustained by the original contractor because of any default by the

subcontractors under this section.

(c) The bond shall, by its terms, inure to the benefit of any of the persons named in Section 3181 so as to give a right of action to those persons or their assigns in any suit brought upon the bond.

(d) The bond shall be in the form of a bond and not a deposit in lieu of a bond.

3249. Suit against the surety or sureties on the payment bond may be brought by any claimant, or his assigns, at any time after the claimant has furnished the last of the labor or materials, or both, but must be commenced before the expiration of six months after the period in which stop notices may be filed as provided in Section 3184.

3250. The filing of a stop notice is not a condition precedent to the maintenance of an action against the surety or sureties on the payment bond. An action on the payment bond may be maintained separately from and without the filing of an action against the public entity by whom the contract was awarded or any officer thereof. In any action, the court shall award to the prevailing party a reasonable attorney's fee, to be taxed as costs.

3251. Unless a payment bond is filed and approved as provided in this chapter, no claim in favor of the original contractor arising under the contract shall be audited, allowed or paid by the public entity awarding the contract or any officer thereof. Claimants shall receive payment of their respective claims in the manner provided by Chapter 4 (commencing with Section 3179) upon complying with the provisions thereof. This section shall become operative on the 181st day after it becomes effective.

3252. (a) With regard to a contract entered into on or after January 1, 1995, in order to enforce a claim upon any payment bond given in connection with a public work, a claimant shall give the 20-day public works preliminary bond notice as provided in Section 3098.

(b) If the 20-day public work preliminary bond notice was not given as provided in Section 3098, a claimant may enforce a claim by giving written notice to the surety and the bond principal as provided in Section 3227 within 15 days after recordation of a notice of completion. If no notice of completion has been recorded, the time for giving written notice to the surety and the bond principal is extended to 75 days after completion of the work of improvement.

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