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Notice Regarding Citation of these Laws

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The Nevada "Little Miller Act"

Nevada Revised Statutes, Title 28, Public Works and Planning, Chapter 339, Contractors' Bonds on Public Works, Sections 339.015 through 339.065

NRS 339.015 Definitions. As used in this chapter:

1. "Claimant" includes a natural person, firm, partnership, association or corporation.
2. "Contracting body" means the State, county, city, town, school district, or any public agency of the State or its political subdivisions which has authority to contract for the construction, alteration or repair of any public building or other public work or public improvement.

NRS 339.025 Performance and payment bonds: Amount; conditions; filing with contracting body.

1. Before any contract, except one subject to the provisions of chapter 408 of NRS, exceeding \$100,000 for any project for the new construction, repair or reconstruction of any public building or other public work or public improvement of any contracting body is awarded to any contractor, he shall furnish to the contracting body the following bonds which become binding upon the award of the contract to the contractor:

(a) A performance bond in an amount to be fixed by the contracting body, but not less than 50 percent of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The bond must be solely for the protection of the contracting body which awarded the contract.

(b) A payment bond in an amount to be fixed by the contracting body, but not less than 50 percent of the contract amount. The bond must be solely for the protection of claimants supplying labor or materials to the contractor to whom the contract was awarded, or to any of his subcontractors, in the prosecution of the work provided for in such contract.

2. If a general contractor has been awarded a contract, except one subject to the provisions of chapter 408 of NRS, by the State Public Works Board for any project for new construction, repair or reconstruction of any public building or other public work or public improvement, each of his subcontractors who will perform work on the contract that exceeds \$50,000 or 1 percent of the proposed project, whichever amount is greater, shall furnish a bond to the Board in an amount to be fixed by the Board.

3. Each of the bonds required pursuant to this section must be executed by one or more surety companies authorized to do business in the State of Nevada. If the contracting body is the State of Nevada or any officer, employee, board, bureau, commission, department, agency or institution thereof, the bonds must be payable to the State of Nevada. If the contracting body is other than one of those enumerated in this subsection, the bonds must be payable to the other contracting body.

4. Each of the bonds must be filed in the office of the contracting body which awarded the contract for which the bonds were given.

5. This section does not prohibit a contracting body from requiring bonds.

NRS 339.035 Actions on payment bonds by claimants.

1. Subject to the provisions of subsection 2, any claimant who has performed labor or furnished material in the prosecution of the work provided for in any contract for which a payment bond has been given pursuant to the provisions of subsection 1 of NRS 339.025, and who has not been paid in full before the expiration of 90 days after the date on which he performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond in his own name to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment.

2. Any claimant who has a direct contractual relationship with any subcontractor of the contractor who gave such payment bond, but no contractual relationship, express or implied, with such contractor, may bring an action on the payment bond only:

(a) If he has, within 30 days after furnishing the first of such materials or performing the first of such labor, served on the contractor a written notice which shall inform the latter of the nature of the materials being furnished or to be furnished, or the labor performed or to be performed, and identifying the person contracting for such labor or materials and the site for the performance of such labor or materials; and

(b) After giving written notice to such contractor within 90 days from the date on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment. Each written notice shall state with substantial accuracy the amount claimed and the name of the person for whom the work was performed or the material supplied, and shall be served by being sent by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place in which he maintains an office or conducts business, or at his residence.

NRS 339.045 Certified copies of payment bonds and contracts to be furnished applicant by contracting body; fee; copies as prima facie evidence.

1. The contracting body shall furnish a certified copy of any payment bond and the contract for which such bond was given to any person who makes an application for such copy and who submits an affidavit stating that:

(a) He has supplied labor or material for the completion of the work provided for in the contract, and that he has not been fully paid for such labor or material;

(b) He is the defendant in an action brought on a payment bond; or

(c) He is surety in a payment bond on which an action has been brought.

2. Every such applicant shall pay for each certified copy a fee fixed by the contracting body to cover the actual cost of the preparation of such copy.

3. A certified copy of any payment bond and of the contract for which such bond was given shall constitute prima facie evidence of the contents, execution and delivery of the original of such bond and contract.

NRS 339.055 Actions on payment bonds: Venue; limitation of actions.

1. Every action on a payment bond as provided in NRS 339.035 shall be brought in the appropriate court of the political subdivision where the contract for which the bond was given was to be performed.

2. No such action may be commenced after the expiration of 1 year from the date on which the claimant performed the last of the labor or furnished the last of the materials for the payment of which such action is brought.

NRS 339.065 Requirement that bonds be furnished by particular surety company or through particular agent or broker unlawful; penalty.

1. It is unlawful for any representative of a contracting body, in issuing an invitation for bids, to require that any bond specified in NRS 339.025 be furnished by a particular surety company or through a particular agent or broker.

2. Any person who violates the provisions of this section is guilty of a misdemeanor.

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