



Sub. H.B. 490

123rd General Assembly
(As Passed by the General Assembly)

**Reps. Willamowski, Netzley, Taylor, Terwilleger, Tiberi, Van Vyven,
Winkler, Hartnett, Damschroder**

Sens. Cupp, Gardner

Effective date: *

ACT SUMMARY

- Provides that a person to whom money is due for labor or work performed or for materials furnished in a public improvement must furnish to the sureties on the bond a statement of the amount due not later than 90 days after *the completion of the contract by the principal contractor and the acceptance of the public improvement for which the bond was provided* by the duly authorized board or officer.
- Provides that an action against the sureties on the bond provided for a public improvement must be brought not later than one year from the date of the acceptance of the public improvement *for which the bond was provided*.

CONTENT AND OPERATION

Statement of amount due

Prior law

Under the Public Improvements Law, any person to whom any money was due for labor or work performed or for materials furnished in a public improvement was required to furnish the sureties on the bond a statement of the amount due to the person. The person could furnish the statement at any time after performing the labor or work or furnishing the materials, but not later than 90 days

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

after the acceptance of the public improvement by the duly authorized board or officer. (R.C. 153.56(A).)

Operation of the act

The act clarifies prior law by providing that any person to whom any money is due for labor or work performed or materials furnished in a public improvement, at any time after performing the labor or work or furnishing the materials, but not later than 90 days after *the completion of the contract by the principal contractor and the acceptance of the public improvement for which the bond was provided* (added by the act) by the duly authorized board or officer, must furnish the sureties on the bond, a statement of the amount due to the person (R.C. 153.56(A)).

Limitation of action against bond sureties

Prior law

The Public Improvements Law provided that a suit could not be brought against sureties on the bond until after 60 days after the furnishing of the statement described above in "**Statement of amount due.**" If the indebtedness was not paid in full at the expiration of that 60-day period, and, if the person complied with the notice requirement described in the following paragraph, the person could bring an action in the person's own name upon the bond, as provided in the law pertaining to actions on a bond. That action was required to be commenced, notwithstanding R.C. 2305.12 (see **COMMENT**), not later than one year from the date of acceptance of the public improvement. (R.C. 153.56(B).)

To exercise the rights under R.C. 153.56, a subcontractor or materials supplier supplying labor or materials that cost more than \$30,000, who is not in direct privity of contract with the principal contractor for the public improvement, was required to serve a notice of furnishing upon the principal contractor in the form provided in the Mechanics' Lien Law (R.C. 153.56(C)).

Operation of the act

The act retains the provision in prior existing law that provides that if the indebtedness is not paid in full at the expiration of the 60-day period after the furnishing of the statement described above in "**Statement of amount due**" and if the person complies with the notice requirement described in the preceding paragraph, the person may bring an action in the person's own name upon the bond, as provided in the law pertaining to actions on a bond. The act clarifies existing law by providing that the action on the bond must be commenced, notwithstanding R.C. 2305.12 (see **COMMENT**), not later than one year from the

date of acceptance of the public improvement *for which the bond was provided* (added by the act). (R.C. 153.56(B).)

COMMENT

R.C. 2305.12, not in the act, provides that an action on the official bond, or undertaking of an officer, assignee, trustee, executor, administrator, or guardian, or on a bond or undertaking given in pursuance of statute, must be brought within ten years after the cause of the action accrued.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-27-99	p. 1326
Reported, H. Civil & Commercial Law	04-04-00	p. 1753
Passed House (94-0)	04-12-00	pp. 1812-1813
Reported, S. Judiciary	09-20-00	pp. 2086-2087
Passed Senate (33-0)	09-20-00	pp. 2093-2094

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