

Enrolled
House Bill 3017

Sponsored by COMMITTEE ON BUSINESS, LABOR AND CONSUMER AFFAIRS (at the request
of National Electrical Contractors Association)

CHAPTER

AN ACT

Relating to public contracts; amending ORS 701.227.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 701.227 is amended to read:

701.227. (1) The Construction Contractors Board shall begin an action to determine whether a contractor or a subcontractor shall not be considered qualified to hold or participate in a public contract for a public improvement upon receipt of information from a public contracting agency or from any person who supplied labor or materials in connection with a public contract for a public improvement indicating that the contractor or subcontractor has not made payment to persons who supplied labor or materials within 60 days after the date when the payment was received by the contractor or subcontractor and that the payment was not a subject of a good faith dispute as defined in ORS 279.445.

(2) If the board determines after notice and opportunity for hearing that a contractor or a subcontractor did not make payment to persons who supplied labor or materials in connection with a public contract for a public improvement within 60 days after the date when payment was received by the contractor or subcontractor, the board shall place the contractor or the subcontractor on the list of persons who have been determined not to be qualified to hold or participate in a public contract for a public improvement. The board may not place a contractor or subcontractor on the list if the only reason that the contractor or subcontractor did not make payment to a person when payment was due is that the contractor or subcontractor did not receive payment from the public contracting agency, contractor or subcontractor when payment was due. The contractor or subcontractor shall remain on the list for a period of not less than six months [*from the date when the board received the information under subsection (1) of this section*].

(3) If the board determines that the claim made against a contractor or subcontractor was made in bad faith or was false, the person filing the bad faith or false claim shall be placed on the list of persons who have been determined not to be qualified to hold or participate in a public contract for a public improvement.

(4) The board shall create and maintain a list of contractors and subcontractors who have been determined not to be qualified to hold or participate in a public contract for a public improvement [*under subsection (2) of this section*]. The list may include any corporation, partnership or other business entity of which the contractor or subcontractor is an owner, shareholder or officer of the business or was an owner or officer of the business. The board shall provide access to the list to all public contracting agencies, contractors and subcontractors.

SECTION 2. ORS 701.227, as amended by section 318, chapter 794, Oregon Laws 2003, is amended to read:

701.227. (1) The Construction Contractors Board shall begin an action to determine whether a contractor or a subcontractor shall not be considered qualified to hold or participate in a public contract for a public improvement upon receipt of information from a public contracting agency or from any person who supplied labor or materials in connection with a public contract for a public improvement indicating that the contractor or subcontractor has not made payment to persons who supplied labor or materials within 60 days after the date when the payment was received by the contractor or subcontractor and that the payment was not a subject of a good faith dispute as defined in ORS 279C.580.

(2) If the board determines after notice and opportunity for hearing that a contractor or a subcontractor did not make payment to persons who supplied labor or materials in connection with a public contract for a public improvement within 60 days after the date when payment was received by the contractor or subcontractor, the board shall place the contractor or the subcontractor on the list of persons who have been determined not to be qualified to hold or participate in a public contract for a public improvement. The board may not place a contractor or subcontractor on the list if the only reason that the contractor or subcontractor did not make payment to a person when payment was due is that the contractor or subcontractor did not receive payment from the public contracting agency, contractor or subcontractor when payment was due. The contractor or subcontractor shall remain on the list for a period of not less than six months [*from the date when the board received the information under subsection (1) of this section*].

(3) If the board determines that the claim made against a contractor or subcontractor was made in bad faith or was false, the person filing the bad faith or false claim shall be placed on the list of persons who have been determined not to be qualified to hold or participate in a public contract for a public improvement.

(4) The board shall create and maintain a list of contractors and subcontractors who have been determined not to be qualified to hold or participate in a public contract for a public improvement [*under subsection (2) of this section*]. The list may include any corporation, partnership or other business entity of which the contractor or subcontractor is an owner, shareholder or officer of the business or was an owner or officer of the business. The board shall provide access to the list to all public contracting agencies, contractors and subcontractors.

Passed by House May 11, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate June 10, 2005

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President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State