

1973 Assembly Bill 1027

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CHAPTER 230, Laws of 1973

AN ACT to amend 289.03 (2) and 289.035 (1) of the statutes, relating to construction lien rights given a payment bond.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 289.03 (2) of the statutes is amended to read:

289.03 (2) PAYMENT BOND MAY ELIMINATE LIEN RIGHTS. In any case where the prime contractor, pursuant to agreement with the owner, has furnished a payment bond under s. 289.035, all liens provided by s. 289.01 except those of any prime contractor do not exist, ss. 289.02 (1) to (4) and (6) and 289.06 do not apply and all claimants who have no lien shall follow the requirements and procedures specified in ss. 289.035 and 289.036.

SECTION 2. 289.035 (1) of the statutes is amended to read:

289.035 (1) To eliminate lien rights as provided in s. 289.03 (2), the contract between the owner and the prime contractor for the construction of the improvement shall contain a provision for the payment by the prime contractor of all claims for labor performed and materials or plans or specifications furnished, used or consumed, except plans or specifications furnished by the architect, professional engineer or surveyor employed by the owner, in making such improvement and performing the work of improvement. The contract shall not be effective to eliminate lien rights unless the prime contractor gives a bond issued by a surety company licensed to do business in this state. The bond shall carry a penalty for unpaid claims of not less than the contract price, and shall be conditioned for the payment to every person entitled thereto of all the claims for labor performed, and materials furnished under the contract and subsequent amendments thereto, to be used or consumed in making the improvement or performing the work of improvement as provided in the contract and subsequent amendments thereto. The bond shall be approved by the owner and by any mortgage lender furnishing funds for the construction of the improvement. No assignment, modification or change in the contract, or change in the work covered

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thereby, or any extension of time for completion of the contract shall release the sureties on the bond.

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