

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1496

By: Paddack

4
5 AS INTRODUCED

6 An Act relating to professions and occupations;
7 creating the Contractor Responsibility Act; providing
8 short title; requiring contractor in certain industry
9 to have written contract on and after certain date;
10 requiring specific provisions in written contract;
11 allowing other provisions in contract; requiring
12 contractors to comply with certain tax provisions;
13 providing for filing of insurance or bond for certain
14 purpose with Department of Labor; requiring separate
15 policy or bond for each job; setting minimal amount
16 of policy or bond; authorizing Department of Labor to
17 set annual policy or bond minimal amount in lieu of
18 separate filings per job; allowing certain exemption
19 for certain persons or professions by rule; directing
20 the Department of Labor to promulgate rules;
21 construing impairment on others for failure to
22 comply; stating administrative penalty for
23 violations; providing for determination of
24 violations by the Administrative Procedure Act;
stating use of administrative fines; requiring notice
upon completion of job; determining date of job
completion by mailing; providing statute of
limitation for actions; stating jurisdiction for
certain actions; providing for codification; and
providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1152.1 of Title 59, unless there
is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Contractor
2 Responsibility Act".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1152.2 of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 A. On and after November 1, 2012, every primary or general
7 contractor engaged in the construction industry, including but not
8 limited to construction, alteration, remodel, or repair of any
9 commercial building, residential property, multi-unit housing
10 project, duplex, condominium, apartment or any structure or
11 appurtenances relating thereto, who has primary authority for the
12 oversight or results of a job, including, but not limited to the
13 selection, hiring, contracting, or performance, of the labor or
14 services relating to the job or project, whether performed by the
15 contractor himself or herself, licensed professionals,
16 subcontractors, independent contractors or employees, shall be
17 required to have a written contract with the person authorized to
18 award the contract before any work shall begin. The written
19 contract shall have specific provisions stating the rights and
20 remedies of the parties for any failure to perform or unsatisfactory
21 attention to duties, failure to pay for materials, labor or
22 services, available remedies for defective products or
23 unsatisfactory job results, liability for acts or omissions, and
24 rights to cancel the contract. These provisions shall be in

1 addition to any other contract provisions deemed appropriate and
2 necessary to the parties or otherwise required by law. In addition,
3 each contractor, whether a resident contractor or a nonresident
4 contractor, as defined by Section 1701 of Title 68 of the Oklahoma
5 Statutes, shall be required to comply with all provisions of
6 Sections 1701 through 1707 of Title 68 of the Oklahoma Statutes.

7 B. Every contractor, subcontractor or independent contractor
8 engaged on a construction project of any kind relating to a
9 commercial or residential building and its related structures and
10 appurtenances, including but not limited to the framing, brick or
11 mortar work, foundations, insulation, roofing, carpentry, or
12 concrete work such as walks, drives, and other structures, shall be
13 required to file with the Department of Labor either a valid policy
14 of insurance or a surety bond covering his or her acts and omissions
15 and unsatisfactory work results. An insurance policy or bond shall
16 be filed for each job undertaken in accordance with the rules
17 promulgated by the Department of Labor. The insurance policy or
18 bond shall be with a surety authorized to do business in this state
19 and shall be in an amount not less than three times the estimated
20 cost of the specific job to be performed.

21 C. Nothing in this section shall be construed to limit the
22 Department of Labor from establishing by rule a minimal amount for
23 an annual insurance policy or bond in lieu of filing a separate
24 insurance policy or bond for each job. Certain licensed

1 contractors or professions that prove to have adequate coverage for
2 acts or omissions or otherwise have remedies through a license
3 complaint procedure for unsatisfactory work results may be exempted
4 by rule. The Department of Labor shall promulgate rules to
5 implement and enforce the provisions of the Contractor
6 Responsibility Act.

7 D. Failure of a contractor, subcontractor or independent
8 contractor to comply with the provisions of the Contractor
9 Responsibility Act shall not impair any other contractor,
10 subcontractor or independent contractor performing labor or services
11 on that same job.

12 E. Any person violating the provisions of this section shall be
13 subject to an administrative fine in an amount not less than One
14 Hundred Dollars (\$100.00) nor more than Five Hundred Dollars
15 (\$500.00) per occurrence. All assessments for administrative fines
16 shall be conducted and determined according to the provisions of the
17 Administrative Procedures Act. Administrative fines when assessed
18 and collected shall be used for purposes of the administration and
19 enforcement of the Contractor Responsibility Act.

20 F. Upon the completion of each contract job, the contractor,
21 subcontractor or independent contractor, shall notify the Department
22 of Labor of the completion of his or her responsibilities. The date
23 of mailing of the notification shall be considered the date of the
24 completion of his or her contract job.

1 G. No action shall commence on a claim against an insurance
2 policy or bond after the expiration of one (1) year from the date of
3 the mailing of notice of completion of the contract for labor or
4 services. An action against any contractor, subcontractor, or
5 independent contractor or for execution against the insurance policy
6 or bond required to be filed pursuant to this section may be brought
7 in any court of competent jurisdiction in any county in which the
8 work was performed pursuant to the contract.

9 SECTION 3. This act shall become effective November 1, 2012.
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