STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

HOUSE BILL 2231 By: Echols

AS INTRODUCED

An Act relating to liens; creating the Oklahoma Construction Registry Act; making use of registry voluntary; requiring provider to register if project is registered in order to preserve lien or bond rights; defining terms; excepting residential construction projects; directing administrator employ personnel, procure supplies and promulgate rules; permitting registration of project by owner or general contractor; prescribing timing for registration; directing administrator assign registry number; requiring number be provided in certain contracts; listing information to be disclosed to administrator; providing applicability of current law if registry is not used; requiring provider to register; permitting provider registration at any time during project; clarifying frequency of registration; listing information to be disclosed to administrator; directing administrator send notice to provider, owner and general contractor; barring lien and bond rights for failure to register in time provided; waiving pre-lien notice for registrants; prescribing maximum fees; directing deposit of fees; describing how funds should be expended; creating revolving fund; specifying type of fund; directing budgeting and spending of funds by administrator; limiting fund; creating industry advisory council to assist and advise administrator; describing membership and appointment of council members; 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 160.1 of Title 42, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Construction Registry Act". The owner or project general contractor may choose to use the Construction Registry. Once a project is registered, all project providers shall register, and any provider who does not register shall forfeit all rights to file a lien or collect on a bond.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.2 of Title 42, unless there is created a duplication in numbering, reads as follows:

A. As used in the Oklahoma Construction Registry Act:

1. "Administrator" means the Secretary of State or designee;

2. "Construction Registry" means a centralized electronic database maintained by the administrator that provides a central repository for the submission and management of notices of commencement of work on a commercial construction project;

3. "Construction Registry Number" (CRN) means the unique number assigned by the administrator for each construction project registered on the Construction Registry. This number shall be used to associate all data to a project;

4. "General contractor" (GC) means the person or entity that directly contracts with the owner for the construction or construction management of an owner's project. For purposes of this act, the term general contractor (GC) encompasses construction managers including construction manager at risk (CMR) and construction manager of agency (CMA);

5. "Owner" means the property owner or the owner's representative who has a legal right to contract with providers for services and materials for a construction project; and

6. "Provider" means any person or entity, other than employees, who furnishes labor, services, materials or rental equipment on a construction project.

B. Nothing in this act shall apply to residential construction projects. "Residential" means a single-family or multifamily project of four or fewer dwelling units.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.3 of Title 42, unless there is created a duplication in numbering, reads as follows:

The administrator of the Construction Registry shall:

1. Employ personnel and procure supplies and equipment as may be necessary to carry out and implement the requirements of the Oklahoma Construction Registry Act;

2. Promulgate rules and prescribe forms to implement the provisions of this act;

3. Contract with any company to develop the data system necessary to accomplish the requirements of the act; and

4. Administer any provision of the act through the use of the Internet or other technology as deemed necessary or appropriate.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.4 of Title 42, unless there is created a duplication in numbering, reads as follows:

A. The owner or general contractor may register the project within ten (10) business days after the contract signing date or the start of construction, whichever occurs first. Any project that is not registered within the prescribed time shall not be afforded the benefits of the Oklahoma Construction Registry Act and shall be subject to the current lien laws of the state. The administrator shall assign a Construction Registry Number to the project upon registration. The Construction Registry Number shall be provided in every contract with subcontractors or subcontractors of subcontractors. Any person or entity acquiring materials, services, labor or rental equipment from any provider on a project that has been assigned a Construction Registry Number shall furnish the provider with that Construction Registry Number.

B. The owner or general contractor shall provide the following information to the administrator:

1. The owner's name, physical and mailing address, name of contact person, name of project if any, email address and telephone number;

2. The architect, physical and mailing address, name of contact person, email address and telephone number;

3. The general contractor, physical and mailing address, name of contact person, email address and telephone number;

4. The project's street address or the project's legal description or the parcel number when available; and

5. The bond information to include name of issuer and bond number if project is bonded.

C. When the owner or general contractor elects not to register or fails to register a project on the Construction Registry within the time allowed in subsection A of this section the project shall default to the current lien and bond law.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.5 of Title 42, unless there is created a duplication in numbering, reads as follows:

A. In order to preserve its lien rights, a provider shall register on the Construction Registry each project assigned a Construction Registry Number for which that provider is furnishing materials, labor, services or rental equipment. A provider may register at any time during the construction project. Registration is required only one time for each project. However, any provider

who may furnish labor, services, materials or rental equipment to more than one entity on a project shall register each entity to which it is providing the labor, services, materials or rental equipment. Registration by any provider using the Construction Registry shall preserve the lien rights of that provider for activity up to sixty (60) days prior to the date of registration through the completion date of the project. Registration by provider eliminates the pre-lien notice requirement in Section 142.6 of Title 42 of the Oklahoma Statutes. The registration shall contain all of the following information:

1. The Construction Registry Number;

2. The provider's name, mailing address, physical address, email address, telephone number and contact person;

3. The date of first supply of materials, labor, services or rental equipment by the provider if the provider has done so at the time of registration; and

4. Any other information required by the administrator pursuant to rule.

B. At the time a provider first registers on the Construction Registry, the administrator shall electronically send notification to the owner, general contractor, and confirmation notice to the provider and shall docket the notice on the Construction Registry as prescribed by the administrator pursuant to rule. Confirmation of registration shall be provided at no cost to any registrant.

Registry subscription shall facilitate the registering entity to obtain reporting on all filings for any project on which the entity is a registrant.

C. A provider who fails to register in the time provided for in subsection A of this section shall forfeit that provider's lien and bond rights for that time period under the lien and bonding laws of the state on a private construction project or to proceed against a contractor's bond on a public or private construction project. Any provider who has properly registered under the Oklahoma Construction Registry Act shall retain all lien rights and bond rights, and the provider shall not be required to give the pre-lien notice required in Section 142.6 of Title 42 of the Oklahoma Statutes.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.6 of Title 42, unless there is created a duplication in numbering, reads as follows:

A. The following are the maximum fees for each posting to the Construction Registry and review by any party that is not registered on the project:

1. Project registration $10.00

After a project is registered, the owner and general contractor may review at no additional charge.

2. Provider registration $5.00

The provider shall register each additional entity to whom they sell on the project $2.00

After a provider is registered, the provider may review at no additional charge.

3. Nonregistered party's review $10.00

4. The administrator may, by rule, establish a subscription fee system for a provider in lieu of the above individual fees.

B. All monies collected by the administrator for registration fees shall be deposited to the Oklahoma Construction Registry Revolving Fund created by Section 7 of this act. These funds shall be used by the administrator to implement, administer and maintain the Oklahoma Construction Registry Act. Payment may be made to the administrator in the same manner as other fees are paid to the administrator.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.7 of Title 42, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the administrator to be designated the "Oklahoma Construction Registry Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies from registration fees and any other monies collected pursuant to the Oklahoma Construction Registry Act. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the administrator for implementation, administration and maintenance of the Oklahoma Construction Registry Act. Expenditures

from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. This fund shall be subject to and comply with the provisions of Section 211 of Title 62 of the Oklahoma Statutes.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.8 of Title 42, unless there is created a duplication in numbering, reads as follows:

There is hereby created a nine-member industry advisory council to assist and advise the administrator in the development, design, implementation and operation of the Construction Registry. Membership and appointments for the advisory council shall be as follows:

1. The Governor shall appoint one member from a statewide general contractor trade association, one member from a statewide state association providing service or materials to the construction industry, and one member from a statewide banking trade association;

2. The Speaker of the House of Representatives shall appoint one member from a statewide general contractor trade association and two members from statewide state associations providing services or materials to the construction industry; and

3. The President Pro Tempore of the Senate shall appoint one member from a statewide general contractor trade association and two

members from statewide state associations providing services or materials to the construction industry.

SECTION 9. This act shall become effective July 1, 2016.

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