

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1281

By: Wallace of the House

and

Newberry of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to liens; creating the Oklahoma
12 Construction Registry Act; making use of Registry
13 voluntary; requiring provider to register if project
14 is registered in order to preserve lien or bond
15 rights; defining terms; excepting residential
16 construction projects; directing the Secretary of
17 State to contract with provider to manage the
18 Registry and to promulgate rules; authorizing
19 Administrator of the Oklahoma Construction Registry
20 to employ personnel, procure supplies, contract with
21 companies and administer provisions of the act;
22 permitting registration of project by owner or
23 general contractor; prescribing timing for
24 registration; directing Administrator to 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 to preserve certain rights;
 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 prelien notice for registrants; prescribing
 maximum fees; directing deposit of fees; describing

1 how funds should be expended; creating revolving
2 fund; specifying type of fund; directing budgeting
3 and spending of funds by the Secretary of State;
4 limiting fund; providing for codification; and
5 providing an effective date.

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

7 SECTION 1. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 160.1 of Title 42, unless there
9 is created a duplication in numbering, reads as follows:

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

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

19 A. As used in the Oklahoma Construction Registry Act:

20 1. "Administrator" means the person or entity that directly
21 contracts with the State of Oklahoma and the Oklahoma Secretary of
22 State for the management of the Construction Registry;

23 2. "Construction Registry" means a centralized electronic
24 database maintained by the Administrator that provides a central

1 repository for the submission and management of notices of
2 commencement of work on a commercial construction project;

3 3. "Construction Registry Number" means the unique number
4 assigned by the Administrator for each construction project
5 registered on the Construction Registry. This number shall be used
6 to associate all data to a project;

7 4. "General contractor" means the person or entity that
8 directly contracts with the owner for the construction or
9 construction management of an owner's project. For purposes of this
10 act, the term general contractor encompasses construction managers
11 including construction manager at-risk and construction manager of-
12 agency;

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

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

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

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

1 A. The Secretary of State shall:

2 1. In consultation with the Office of Management and Enterprise
3 Services, initiate a request for proposal to contract with a
4 provider to manage the Construction Registry created by the Oklahoma
5 Construction Registry Act at no cost to the State of Oklahoma; and

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

8 B. The Administrator of the Oklahoma Construction Registry may:

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

12 2. Contract with a company to develop the data system necessary
13 to accomplish the requirements of this act; and

14 3. Administer any provision of this act through the use of the
15 Internet or other technology as deemed necessary or appropriate.

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

19 A. The owner or general contractor may register the project
20 within ten (10) business days after the contract signing date or the
21 start of construction, whichever occurs first. Any project that is
22 not registered within the prescribed time shall not be afforded the
23 benefits of the Oklahoma Construction Registry Act and shall be
24 subject to the current lien laws of the state. The Administrator

1 shall assign a Construction Registry Number to the project upon
2 registration. The Construction Registry Number shall be provided in
3 every contract with subcontractors or subcontractors of
4 subcontractors. Any person or entity acquiring materials, services,
5 labor or rental equipment from any provider on a project that has
6 been assigned a Construction Registry Number shall furnish the
7 provider with that Construction Registry Number.

8 B. The owner or general contractor shall provide the following
9 information to the Administrator:

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

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

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

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

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

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

1 SECTION 5. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 160.5 of Title 42, unless there
3 is created a duplication in numbering, reads as follows:

4 A. In order to preserve its lien rights, a provider shall
5 register on the Construction Registry each project assigned a
6 Construction Registry Number for which that provider is furnishing
7 materials, labor, services or rental equipment. A provider may
8 register at any time during the construction project. Registration
9 is required only one time for each project. However, any provider
10 who may furnish labor, services, materials or rental equipment to
11 more than one entity on a project shall register each entity to
12 which it is providing the labor, services, materials or rental
13 equipment. Registration by any provider using the Construction
14 Registry shall preserve the lien rights of that provider for
15 activity up to sixty (60) days prior to the date of registration
16 through the completion date of the project. Registration by any
17 provider eliminates the prelien notice requirement in Section 142.6
18 of Title 42 of the Oklahoma Statutes. The registration shall
19 contain all of the following information:

20 1. The Construction Registry Number;

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

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

4 4. Any other information required by the Secretary of State.

5 B. At the time a provider first registers on the Construction
6 Registry, the Administrator shall electronically send notification
7 to the owner and general contractor, and confirmation notice to the
8 provider, and shall docket the notice on the Construction Registry
9 as prescribed by the Secretary of State pursuant to rule.

10 Confirmation of registration shall be provided at no cost to any
11 registrant. Registry subscription shall facilitate the registering
12 entity to obtain reporting on all filings for any project on which
13 the entity is a registrant.

14 C. A provider who fails to register in the time provided for in
15 subsection A of Section 4 of this act shall forfeit that provider's
16 lien and bond rights for that time period under the lien and bonding
17 laws of the state on a private construction project or to proceed
18 against a contractor's bond on a public or private construction
19 project. Any provider who has properly registered under the
20 Oklahoma Construction Registry Act shall retain all lien rights and
21 bond rights, and the provider shall not be required to give the
22 prelien notice required in Section 142.6 of Title 42 of the Oklahoma
23 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; and

4. The Secretary of State 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 Secretary of State to implement, administer and maintain the Oklahoma Construction Registry Act. Payment may be

1 made to the Administrator in the methods established by the
2 Secretary of State.

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

6 There is hereby created in the State Treasury a revolving fund
7 for the Secretary of State to be designated the "Oklahoma
8 Construction Registry Revolving Fund". The fund shall be a
9 continuing fund, not subject to fiscal year limitations, and shall
10 consist of monies from registration fees and any other monies
11 collected pursuant to the Oklahoma Construction Registry Act. All
12 monies accruing to the credit of the fund are hereby appropriated
13 and may be budgeted and expended by the Secretary of State for
14 implementation, administration and maintenance of the Oklahoma
15 Construction Registry Act. Expenditures from the fund shall be made
16 upon warrants issued by the State Treasurer against claims filed as
17 prescribed by law with the Director of the Office of Management and
18 Enterprise Services for approval and payment. This fund shall be
19 subject to and comply with the provisions of Section 211 of Title 62
20 of the Oklahoma Statutes.

21 SECTION 8. This act shall become effective January 1, 2018.

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23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL AND
24 ENVIRONMENTAL, dated 03/01/2017 - DO PASS, As Amended and
Coauthored.