

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2305 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Avery Frix

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2305

By: Frix

8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to public buildings and public works;
10 amending 61 O.S. 2011, Section 2, as amended by
11 Section 2, Chapter 241, O.S.L. 2012 (61 O.S. Supp.
12 2018, Section 2), which relates to filing of bonds;
13 providing for filing of claim; and providing an
14 effective date.

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

16 SECTION 1. AMENDATORY 61 O.S. 2011, Section 2, as
17 amended by Section 2, Chapter 241, O.S.L. 2012 (61 O.S. Supp. 2018,
18 Section 2), is amended to read as follows:

19 Section 2. A. Bonds shall be filed in the office of the
20 agency, institution, department, commission, municipality or
21 government instrumentality that is authorized by law and does enter
22 into contracts for the construction of public improvements or
23 buildings, or public or private improvements or buildings on a
24 public-private partnership project, or repairs to the same; and the

1 officer with whom the bond is filed shall furnish a copy thereof to
2 any person claiming any rights thereunder. Any person to whom there
3 is due any sum for labor, material or repair to machinery or
4 equipment, furnished as stated in Section 1 of this title, the heirs
5 or assigns of such person, may file a claim or bring an action on
6 the bond for the recovery of the indebtedness, provided that no
7 action shall be brought on the bond after one (1) year from the day
8 on which the last of the labor was performed or material or parts
9 furnished for which the claim is made.

10 B. Any person having direct contractual relationship with a
11 subcontractor, regardless of tier, performing work on the contract,
12 but no contractual relationship express or implied with the
13 contractor furnishing the payment bond, shall have a right of action
14 upon the payment bond only upon giving written notice to the
15 contractor and surety on the payment bond within ninety (90) days
16 from the date on which such person did or performed the last of the
17 labor or furnished or supplied the last of the material or parts for
18 which the claim is made, stating with substantial accuracy the
19 amount claimed and the name of the party to whom the material or
20 parts were furnished or supplied or for whom the labor was done or
21 performed. The notice shall be served by mailing the same by
22 registered or certified mail, postage prepaid, in an envelope
23 addressed to the contractor at any place the contractor maintains an
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1 office or conducts business, together with a copy thereof to the
2 surety or sureties on the payment bond.

3 C. 1. The bond or irrevocable letter of credit issued to the
4 Department of Transportation or the Oklahoma Turnpike Authority,
5 pursuant to this section, shall also provide that the contractor
6 shall pay all state and local taxes accruing as a result of the
7 contract, any liquidated damages as provided by the contract and any
8 overpayment of progressive estimates resulting in a balance due and
9 owing the Department of Transportation or the Oklahoma Turnpike
10 Authority.

11 2. A claim against the bond or irrevocable letter of credit for
12 delinquent taxes shall be made by the public entity to which the tax
13 was payable. The claim shall be made within six (6) months from the
14 date on which the tax became delinquent. Notice of the delinquent
15 tax shall be sent by certified mail to the surety, and a copy of the
16 notice shall be sent to the contractor. Nothing in this paragraph
17 shall be construed to release, at any time, the contractor from
18 responsibility for full payment of all taxes.

19 3. A claim against the bond or irrevocable letter of credit for
20 overpayment on progressive estimates shall be made by the public
21 entity within one (1) year from the date of final acceptance of the
22 project. Notice of the overpayment shall be sent by certified mail
23 to the surety and a copy of the notice shall be sent to the
24 contractor. Nothing in this paragraph shall be construed as to

1 release, at any time, the contractor from the responsibility of
2 refunding any amount overpaid on progressive estimates which are due
3 and owing the Department of Transportation.

4 SECTION 2. This act shall become effective November 1, 2019.

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6 57-1-7985 LRB 02/14/19

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