



Ohio Revised Code

Section 5525.16 Contract performance bond and payment bond.

Effective: July 1, 2013

Legislation: House Bill 51 - 130th General Assembly

(A) Before entering into a contract, the director of transportation shall require a contract performance bond and a payment bond with sufficient sureties, as follows:

(1) A contract performance bond in an amount equal to one hundred per cent of the contract amount, conditioned, among other things, that the contractor will perform the work upon the terms proposed, within the time prescribed, and in accordance with the plans and specifications, will indemnify the state against any damage that may result from any failure of the contractor to so perform, and, further, in case of a grade separation will indemnify any railroad company involved against any damage that may result by reason of the negligence of the contractor in making the improvement.

(2) A payment bond in an amount equal to one hundred per cent of the contract amount, conditioned for the payment by the contractor and all subcontractors for labor or work performed or materials furnished in connection with the work, improvement, or project involved.

(B) In no case is the state liable for damages sustained in the construction of any work, improvement, or project under this chapter and Chapters 5501., 5503., 5511., 5513., 5515., 5516., 5517., 5519., 5521., 5523., 5527., 5528., 5529., 5531., 5533., and 5535. of the Revised Code.

This section does not require the director to take bonds as described in division (A) of this section in connection with any force account work, but the director may require those bonds in connection with force account work.

If any bonds taken under this section are executed by a surety company, the director may not approve such bonds unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact business in this state, and a copy of the power of attorney of the agent of the company. The superintendent, upon request, shall issue to any licensed agent of such company the certificate without charge.



The bonds required to be taken under this section shall be executed by the same surety, approved by the director as to sufficiency of the sureties, and be in the form prescribed by the attorney general.

(C) Any person to whom any money is due for labor or work performed or materials furnished in connection with a work, improvement, or project, at any time after performing the labor or furnishing the materials but not later than ninety days after the acceptance of the work, improvement, or project by the director, may furnish to the sureties on the payment bond a statement of the amount due the person. If the indebtedness is not paid in full at the expiration of sixty days after the statement is furnished, the person may commence an action in the person's own name upon the bond as provided in sections 2307.06 and 2307.07 of the Revised Code.

An action shall not be commenced against the sureties on a payment bond until sixty days after the furnishing of the statement described in this section or, notwithstanding section 2305.12 of the Revised Code, later than one year after the date of the acceptance of the work, improvement, or project.

(D) As used in this section, "improvement," "subcontractor," "material supplier," and "materials" have the same meanings as in section 1311.01 of the Revised Code, and "contractor" has the same meaning as "original contractor" as defined in that section.