

SENATE BILL NO. 314

INTRODUCED BY S. FITZPATRICK

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO CONSTRUCTION BONDS; PROVIDING THAT CERTAIN PEOPLE MAY FILE A BOND; PROVIDING LIMITS ON THE AMOUNT PAID BY A PRINCIPAL OR A PRINCIPAL'S SURETIES; AMENDING SECTION 71-3-551, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-551, MCA, is amended to read:

"71-3-551. Substitution of bond allowed -- filing -- amount -- condition. (1) (a) Whenever a construction lien has been filed ~~upon~~on real property, ~~or any improvements on the real property, the contracting owner of any interest in the property, whether legal or beneficial entities as provided in subsection~~ (1)(b), may, at any time before the lien claimant has commenced an action to foreclose the construction lien or within 30 days of the service of a complaint in an action to foreclose the construction lien, file a bond with the clerk of the district court in the county in which the property is located or, if the property is located in more than one county, with the clerk of the district court of any county in which a part of the property is located.

(b) The following persons may file a bond as provided in subsection (1)(a):

(i) the contracting owner of any interest in the property, whether legal or beneficial;

(ii) the original contractor as defined in 71-3-522; or

(iii) any subcontractor.

(2) The bond must be in an amount 1 1/2 times the amount of the construction lien and must be either in cash or written by a corporate surety company. If written by a corporate surety, the bond must be approved by a judge of the district court with which the bond is filed.

(3) The bond must be conditioned that if the construction lien claimant is finally adjudged to be entitled to recover ~~upon~~on the claim ~~upon~~on which the construction lien is based, the principal or the principal's sureties shall pay to the claimant the amount of the claimant's judgment, together with any interest,

1 costs, attorney fees, and other sums that the claimant would be entitled to recover ~~upon~~on the foreclosure of a
2 construction lien against the principal. However, the total amount paid by the principal or the principal's sureties
3 may not exceed the amount of the bond provided for in subsection (2)."

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5 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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