

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1281

6 By: Wallace

7 COMMITTEE SUBSTITUTE

8 An Act relating to liens; creating the Oklahoma
9 Construction Registry Act; making use of Registry
10 voluntary; requiring provider to register if project
11 is registered in order to preserve lien or bond
12 rights; defining terms; excepting residential
13 construction projects; directing the Secretary of
14 State to contract with provider to manage the
15 Registry and to promulgate rules; authorizing
16 Administrator of the Oklahoma Construction Registry
17 to employ personnel, procure supplies, contract with
18 companies and administer provisions of the act;
19 permitting registration of project by owner or
20 general contractor; prescribing timing for
21 registration; directing Administrator to assign
22 Registry Number; requiring number be provided in
23 certain contracts; listing information to be
24 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
how funds should be expended; creating revolving
fund; specifying type of fund; directing budgeting
and spending of funds by the Secretary of State;
limiting fund; providing for codification; and
providing an effective date.

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

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

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

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

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

15 1. "Administrator" means the person or entity that directly
16 contracts with the State of Oklahoma and the Oklahoma Secretary of
17 State for the management of the Construction Registry;

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

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

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

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

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

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

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

21 A. The Secretary of State shall:

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

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

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

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

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

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

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

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

1 subcontractors. Any person or entity acquiring materials, services,
2 labor or rental equipment from any provider on a project that has
3 been assigned a Construction Registry Number shall furnish the
4 provider with that Construction Registry Number.

5 B. The owner or general contractor shall provide the following
6 information to the Administrator:

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

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

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

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

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

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

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

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

- 17 1. The Construction Registry Number;
- 18 2. The provider's name, mailing address, physical address,
19 email address, telephone number and contact person;
- 20 3. The date of first supply of materials, labor, services or
21 rental equipment by the provider if the provider has done so at the
22 time of registration; and
- 23 4. Any other information required by the Secretary of State.

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

6 Confirmation of registration shall be provided at no cost to any
7 registrant. Registry subscription shall facilitate the registering
8 entity to obtain reporting on all filings for any project on which
9 the entity is a registrant.

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

20 SECTION 6. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 160.6 of Title 42, unless there
22 is created a duplication in numbering, reads as follows:
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1 A. The following are the maximum fees for each posting to the
2 Construction Registry and review by any party that is not registered
3 on the project:

4 1. Project registration \$10.00

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

7 2. Provider registration \$5.00

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

10 After a provider is registered, the provider may review at no
11 additional charge;

12 3. Nonregistered party's review \$10.00; and

13 4. The Secretary of State may, by rule, establish a
14 subscription fee system for a provider in lieu of the above
15 individual fees.

16 B. All monies collected by the Administrator for registration
17 fees shall be deposited to the Oklahoma Construction Registry
18 Revolving Fund created by Section 7 of this act. These funds shall
19 be used by the Secretary of State to implement, administer and
20 maintain the Oklahoma Construction Registry Act. Payment may be
21 made to the Administrator in the methods established by the
22 Secretary of State.

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

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

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

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