

RCW 39.08.030 Conditions of bond—Notice of claim—Action on bond

—Attorneys' fees. (1) (a) The bond mentioned in RCW 39.08.010 must be in an amount equal to the full contract price agreed to be paid for such work or improvement, except under subsection (2) of this section, and must be to the state of Washington, except as otherwise provided in RCW 39.08.100, and except in cases of cities, towns, public transportation benefit areas, passenger-only ferry service districts, and water-sewer districts, in which cases such municipalities may by general ordinance or resolution fix and determine the amount of such bond and to whom such bond runs. However, the same may not be for a less amount than twenty-five percent of the contract price of any such improvement for cities, towns, public transportation benefit areas, and passenger-only ferry service districts, and not less than the full contract price of any such improvement for water-sewer districts, and may designate that the same must be payable to such city, town, water-sewer district, public transportation benefit area, or passenger-only ferry service district, and not to the state of Washington, and all such persons mentioned in RCW 39.08.010 have a right of action in his, her, or their own name or names on such bond for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements, and the state has a right of action for the collection of taxes, increases, and penalties specified in RCW 39.08.010: PROVIDED, That, except for the state with respect to claims for taxes, increases, and penalties specified in RCW 39.08.010, such persons do not have any right of action on such bond for any sum whatever, unless within thirty days from and after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county or municipality, or other public body, city, town or district, the laborer, mechanic or subcontractor, or material supplier, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, or the making of such improvement, must present to and file with such board, council, commission, trustees or body acting for the state, county or municipality, or other public body, city, town or district, a notice in writing in substance as follows:

To (here insert the name of the state, county or municipality or other public body, city, town or district):

Notice is hereby given that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or material supplier, or person claiming to have furnished labor, materials or provisions for or upon such contract or work) has a claim in the sum of dollars (here insert the amount) against the bond taken from (here insert the name of the principal and surety or sureties upon such bond) for the work of (here insert a brief mention or description of the work concerning which said bond was taken).

(here to be signed)

(b) Such notice must be signed by the person or corporation making the claim or giving the notice, and the notice, after being presented and filed, is a public record open to inspection by any person, and in any suit or action brought against such surety or sureties by any such person or corporation to recover for any of the items specified in this section, the claimant is entitled to recover in addition to all other costs, attorneys' fees in such sum as the

court adjudges reasonable. However, attorneys' fees are not allowed in any suit or action brought or instituted before the expiration of thirty days following the date of filing of the notice as provided in this section. However, any city may avail itself of the provisions of RCW 39.08.010 through 39.08.030, notwithstanding any charter provisions in conflict with this section. Moreover, any city or town may impose any other or further conditions and obligations in such bond as may be deemed necessary for its proper protection in the fulfillment of the terms of the contract secured thereby, and not in conflict with this section. The thirty-day notice requirement under this subsection does not apply to claims made by the state for taxes, increases, and penalties specified in RCW 39.08.010.

(2) Under the job order contracting procedure described in RCW 39.10.420, bonds will be in an amount not less than the dollar value of all open work orders.

(3) Where retainage is not withheld pursuant to RCW 60.28.011(1)(b), upon final acceptance of the public works project, the state, county, municipality, or other public body must within thirty days notify the department of revenue, the employment security department, and the department of labor and industries of the completion of contracts over thirty-five thousand dollars. [2018 c 89 s 1. Prior: 2013 c 113 s 4; (2013 c 113 s 3 expired June 30, 2016); 2013 c 28 s 2; (2013 c 28 s 1 expired June 30, 2016); (2009 c 473 s 1 expired June 30, 2016); 2007 c 218 s 89; 2003 c 301 s 4; 1989 c 58 s 1; 1977 ex.s. c 166 s 4; 1915 c 28 s 2; 1909 c 207 s 3; RRS s 1161; prior: 1899 c 105 s 1; 1888 p 16 s 3. Formerly RCW 39.08.030 through 39.08.060.]

Effective date—2018 c 89: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 15, 2018]." [2018 c 89 s 3.]

Effective date—2013 c 113 s 4: "Section 4 of this act takes effect June 30, 2016." [2013 c 113 s 10.]

Expiration date—2013 c 113 s 3: "Section 3 of this act expires June 30, 2016." [2013 c 113 s 9.]

Effective date—2013 c 28 s 2: "Section 2 of this act takes effect June 30, 2016." [2013 c 28 s 4.]

Expiration date—2013 c 28 s 1: "Section 1 of this act expires June 30, 2016." [2013 c 28 s 3.]

Expiration date—2009 c 473: "This act expires June 30, 2016." [2009 c 473 s 3.]

Intent—Finding—2007 c 218: See note following RCW 41.08.020.

Severability—1977 ex.s. c 166: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to the other persons or circumstances is not affected." [1977 ex.s. c 166 s 9.]