



General Assembly

Substitute Bill No. 1137

January Session, 2003

**AN ACT CONCERNING SALES TAX BOND REQUIREMENTS FOR
NONRESIDENT CONTRACTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (7) of section 12-430 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2003, and applicable to contracts entered into on or after July 1, 2003*):

4 [(7) (a) (i) When a nonresident contractor enters into a contract with
5 a person other than a direct payment permit holder, as the term is used
6 in section 12-409a, pursuant to which, or in the carrying out of which,
7 tangible personal property will be consumed or used in this state, such
8 nonresident contractor shall deposit with the Commissioner of
9 Revenue Services at the commencement of such contract a sum
10 equivalent to five per cent of the total amount to be paid under the
11 contract or shall furnish the Commissioner of Revenue Services with a
12 guarantee bond satisfactory to said commissioner in a sum equivalent
13 to five per cent of such total amount, to secure payment of the taxes
14 payable with respect to tangible personal property consumed or used
15 pursuant to or in the carrying out of such contract or any other state
16 taxes, and shall obtain a certificate from the Commissioner of Revenue
17 Services that the requirements of this subsection have been met.

18 (ii) When a nonresident contractor enters into a contract with a
19 direct payment permit holder pursuant to which, or in the carrying out

20 of which, tangible personal property will be consumed or used in this
21 state, such nonresident contractor shall deposit with the Commissioner
22 of Revenue Services at the commencement of such contract a sum
23 equivalent to two per cent of the total amount to be paid under the
24 contract or shall furnish the Commissioner of Revenue Services with a
25 guarantee bond satisfactory to said commissioner in a sum equivalent
26 to two per cent of such total amount, to secure payment of the taxes
27 payable with respect to tangible personal property consumed or used
28 pursuant to or in the carrying out of such contract or any other state
29 taxes, and shall obtain a certificate from the Commissioner of Revenue
30 Services that the requirements of this subsection have been met.

31 (b) (i) Any person other than a direct payment permit holder
32 dealing with a nonresident contractor without first obtaining a copy of
33 such certificate from said commissioner shall no later than ninety days
34 after the commencement of such contract or, if the contract is to be
35 completed in less than ninety days, no later than forty-five days after
36 the commencement of such contract deduct five per cent of all
37 amounts payable to such nonresident contractor and pay it over to said
38 commissioner on behalf of or as agent for such nonresident contractor
39 or shall furnish said commissioner with a guarantee bond satisfactory
40 to said commissioner in a sum equivalent to five per cent of such total
41 amount, to secure payment of the taxes payable with respect to such
42 tangible personal property consumed or used pursuant to or in the
43 carrying out of such contract or any other state taxes.

44 (ii) Any direct payment permit holder dealing with a nonresident
45 contractor without first obtaining a copy of such certificate from said
46 commissioner shall no later than ninety days after the commencement
47 of such contract or, if the contract is to be completed in less than ninety
48 days, no later than forty-five days after the commencement of such
49 contract deduct two per cent of all amounts payable to such
50 nonresident contractor and pay it over to said commissioner on behalf
51 of or as agent for such nonresident contractor or shall furnish said
52 commissioner with a guarantee bond satisfactory to said commissioner
53 in a sum equivalent to two per cent of such total amount, to secure

54 payment of the taxes payable with respect to such tangible personal
55 property consumed or used pursuant to or in the carrying out of such
56 contract or any other state taxes.

57 (c) If any person dealing with such nonresident contractor fails to
58 comply with subdivision (b) of this subsection, such person shall be
59 personally liable for payment of the taxes imposed by this chapter with
60 respect to such tangible personal property consumed or used pursuant
61 to or in carrying out such contract or any other state taxes.]

62 (7) (A) As used in this section, "nonresident contractor" means a
63 contractor who does not maintain a regular place of business in
64 this state and "regular place of business" means any bona fide
65 office, factory, warehouse or other space in this state at which a
66 contractor is doing business in its own name in a regular and
67 systematic manner, and which place is continuously maintained,
68 occupied, and used by the contractor in carrying on its business
69 through its employees regularly in attendance, except that "regular
70 place of business" does not include a place of business for a
71 statutory agent for service of process or a temporary office at the
72 site of construction.

73 (B) Any person doing business with a nonresident contractor shall
74 withhold payment in an amount of five per cent of the contract price
75 and remit such amount as a deposit to the Commissioner of Revenue
76 Services not later than thirty days after the completion of the contract.

77 (C) A nonresident contractor shall request, in writing, that the
78 Commissioner of Revenue Services audit the records of such
79 contractor for a project for which a deposit was made under
80 subparagraph (B) of this subdivision. The commissioner shall, after
81 receipt of such request, issue to the nonresident contractor a
82 certificate of no tax due or a certificate of tax due from the
83 nonresident contractor. Upon issuance of a certificate of no tax due,
84 the commissioner shall return such deposit to the nonresident
85 contractor. Upon issuance of a certificate of taxes due, the

86 commissioner may pay to the nonresident contractor out of the
87 deposit any excess over the amount of taxes set forth in the
88 certificate together with the interest and penalties then assessed.

89 (D) When a person doing business with the nonresident
90 contractor deposits with the Commissioner of Revenue Services
91 the amount set forth in subparagraph (B) of this subdivision, the
92 commissioner shall issue such person a receipt for such amount.
93 Upon the issuance of such receipt, the person doing business with
94 the nonresident contractor shall not be liable for any claim of the
95 nonresident contractor for such amount or for any claim of the
96 commissioner for any taxes arising from the activities of the
97 nonresident contractor on the project for which the deposit was
98 made.

99 [(d)] (e) When a nonresident contractor enters into a contract with
100 the state, said contractor shall provide the Labor Department with
101 evidence demonstrating compliance with the provisions of chapters
102 567 and 568, the prevailing wage requirements of chapter 557 and any
103 other provisions of the general statutes related to conditions of
104 employment.

This act shall take effect as follows:	
Section 1	<i>July 1, 2003, and applicable to contracts entered into on or after July 1, 2003</i>

Statement of Legislative Commissioners:

The text which appeared as a "(NEW)" section was incorporated into an existing statute for consistency with the general statutes.

FIN *Joint Favorable Subst.*