

**KANSAS NON-RESIDENT CONTRACTORS'
REGISTRATION AND BONDING LAW**



79-1012. Same; actions against contractors; procedure. An action against any contractor coming within the provisions of this act may be brought by the attorney for the state director of revenue or the general counsel of the employment security division in Shawnee county or in any county in which any work under any such contract is performed. The summons shall be directed to the secretary of state, and shall require the defendant to answer by a certain day, not less than forty (40) days nor more than sixty (60) days from date. Said summons shall be forthwith forwarded by the clerk of the court to the secretary of state, who shall immediately forward a copy thereof to the contractor at the address given by such contractor; and thereupon the secretary of state shall make return of said summons to the court whence it issued, showing the date of its receipt by him, the date of forwarding such copy and the name and address of the person to whom he forwarded said copy. Such return shall be under his hand and seal of office, and shall have the same force and effect as a due and sufficient return made by the sheriff on process directed to him.

The secretary of state shall keep a suitable record book, in which he shall docket every action commenced against any such contractor as aforesaid. This record shall show the court in which the suit is brought, the title of the case, the time when commenced, and the date and manner of service. (L. 1957, ch. 515, Sec. 5; July 1.)

79-1013. Same; failure to comply with act; effect. Any contractor who fails to register with the director of revenue as required by this act, or who fails to comply with any of the provisions of this act, shall not be entitled to maintain an action to recover payment for performance in the courts of this state on such contract. (L. 1957, ch. 515, Sec. 6; July 1.)

79-1014. Administration of act; rules and regulations; release of bond. The director of taxation shall administer this act. The secretary of revenue shall adopt rules and regulations for the administration of this act. No bonds required under this act shall be released until the contract for which any such bond is given shall be fully performed, nor until the director of taxation shall obtain a written release from the director of the employment security division certifying that all contributions and interest due by the principal on such bond, under the employment security law, have been paid in full. (K.S.A. 79-1014; L. 1972, ch. 342, Sec. 88; July 1.)

79-1015. Same; penalties for violations. Every person failing to register as required by this act, or to execute the bond herein provided, before beginning the performance of any contract, or who violates any other provision of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000). (L. 1957, ch. 515, Sec. 8; July 1.)

**DEPARTMENT OF REVENUE
DIVISION OF TAXATION
ROBERT B. DOCKING STATE OFFICE BUILDING
TOPEKA, KANSAS 66625-2007**

79-1008. Collection of taxes from nonresident contractors; "contractor" defined. For the purpose of this act, "contractor" includes individuals, partnerships, firms or corporations, or other associations of persons engaged in the business of the construction, alteration, repairing, dismantling or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks and towers, airports, dams, levees and canals, oil and gas wells, water wells, pipe lines, transmission and power lines, and every other type of structure, project, development or improvement coming within the definition of real property and personal property, including such construction, alteration, or repairing of such property to be held either for sale or rental, and further including all subcontractors. (L. 1957, ch. 515, Sec. 1; L. 1959, ch. 370, Sec. 1; June 30.)

79-1009. Collection of taxes from non-resident contractors; registration for certain contracts; dispositions. To the end that the state of Kansas and the political subdivisions thereof may receive all taxes due in every instance, including contributions due under the employment security law, contractors, who are nonresidents of this state, desiring to engage in, prosecute, follow or carry on the business of contracting as defined in this act shall register with the secretary of revenue or the secretary's designee for each contract where the total contract price or compensation to be received amounts to more than ten thousand dollars (\$10,000), except that a foreign corporation authorized to do business in this state shall not be required to register under the provisions of this act. (L. 1957, ch. 515, Sec. 2; L. 1968, ch. 289, Sec. 1; L. 1992, ch. 53, Sec. 1; July, 1992.)

79-1010. Same; surety bonds for certain contractors; conditions; amount; increase, when; release; withholding moneys by certain contractors to guarantee payment of taxes; enforcement of act. Every contractor required to register any contract or contracts, as defined in this act, shall, before entering into the performance of such contract or contracts, execute and file with the director of revenue a good and valid bond in a surety company authorized to do business in this state, or with sufficient sureties to be approved by the director of revenue, conditioned that all taxes, including contributions due under the employment security law, which may accrue to the state of Kansas and all taxes which may accrue to the political subdivisions thereof on account of the execution and performance of such contract or contracts, will be paid when due, and the execution and filing of said bond shall be a condition precedent to commencing work on any contract in the state of Kansas: Provided, Such bond shall be conditioned as hereinabove provided with respect to all contracts to be performed during the current calendar year and shall be in a sum of not less than one thousand dollars (\$1,000): Provided further, If at any time during the current calendar year the director of revenue shall determine the amount of the above bond is not sufficient to cover the tax liabilities accruing to the state of Kansas or the political subdivision thereof for the current calendar year, or, upon written request of the employment security division, the director of revenue shall require such bond to be increased in

such sum as the director may determine to be proper: And provided further, When any contractor shall have fully performed all contracts registered during the current calendar year, the hereinabove bond may be released by the director of revenue.

Any contractor who is or becomes subject to the provisions of this act and every contractor required to register any contract or contracts, as defined in this act, who contracts with any subcontractor, who also is or becomes subject to the provisions of this act or is required to register any contract or contracts as defined in this act, shall withhold sufficient moneys on said contract to guarantee that all taxes, including contributions due under the employment security law, which may accrue to the state of Kansas and all taxes which may accrue to the political subdivisions thereof on account of the execution and performance of such contract or contracts, will be paid when due. Failure to comply with the provisions of this section shall render said contractor directly liable for such taxes, contribution, penalties and interest due from said subcontractor and the director of revenue shall have all of the remedies of collection against said contractor under the provisions of this act as though the services in question were performed directly for said contractor.

Every person failing to register as required by this act, or to execute the bond herein provided before beginning the performance of any contract, shall be denied the right to perform such contract until he complies with such requirements, and the county attorney of any county in which the contract is to be performed, general counsel of the employment security division when requested by the director of the employment security division, or the attorney for the state director of revenue, when requested by the director of revenue, is hereby authorized to proceed by injunction to prevent any activity in the performance of such contract until such registration is made and such bond is executed and filed, and any temporary injunction enjoining the execution of such contract shall be granted without notice by any judge now authorized by law to grant injunctions. (L. 1957, ch. 515, Sec. 3; L. 1959, ch. 371, Sec. 1; L. 1963, ch. 462, Sec. 1; L. 1968, ch. 289, Sec. 2; March 27.)

79-1011. Same; secretary of state as agent for service of process, appointment; effect. At the time such contractor registers with the director of revenue, he shall make an appointment, in writing, of the secretary of state of the state of Kansas, or his successor in office, to be his true and lawful agent, upon whom may be served all lawful process in any action or proceeding against said nonresident contractor for state and local taxes growing out of any contract executed, or being executed, in this state; and said appointment, in writing, shall be evidenced of such contractor's agreement that any such process against him which is so served on the secretary of state shall be of the same legal force and validity as if served upon him personally within the state. (L. 1957, ch. 515, Sec. 4; July 1.)