

component parts of the work or improvement contemplated. Such additional bond shall be deposited with and held by the municipality for the use of any party interested therein. Every such additional bond shall provide that every person, co-partnership, association, or corporation who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work as above provided, and who has not been paid therefor, may sue in assumpsit on said additional bond, in the name of the municipality, for his, their, or its use, and prosecute the same to final judgment, for such sum or sums as may be justly due him, them, or it and have execution thereon: Provided, however, That the municipality shall not be liable for the payment of any costs or expense of any suit.

Suit on bond.

Proviso.

Section 3. The act, approved the tenth day of May, one thousand nine hundred and seventeen (Pamphlet Laws, one hundred fifty-eight), entitled "An act to authorize counties, cities, boroughs, towns, townships, school districts, and poor districts to require a bond to protect labor and material-men, and providing for suits thereon by laborers and material-men furnishing labor and material in and about the erection, alteration, addition, and repair of public buildings," is hereby repealed.

Act of
May 10, 1917
(P. L. 158),
repealed.

APPROVED—The 22d day of June, A. D. 1931.

GIFFORD PINCHOT

No. 294

AN ACT

Prescribing rights and remedies, and the procedure in connection with suits and recovery on bonds conditioned for the payment of material and labor furnished, supplied, or performed in the prosecution of any public work or improvement.

Section 1. Be it enacted, &c., That the word "municipality," as used in this act, shall be construed to mean and include counties, cities, boroughs, incorporated towns, townships, school districts, and poor districts or any other incorporated district.

Municipal
contracts."Municipality,"
defined.

Section 2. Whenever the Commonwealth of Pennsylvania, acting by or through any department or agency thereof, or any municipality therein, shall require any person, co-partnership, association, or corporation, entering into a contract with such department, agency, or municipality for any public work or improvement, to execute and deliver to such department, agency, or

Bond for use
of labor and
material-men.

Right to sue on bond.

Proviso.

Time to bring suit.

Lack of contractual relationship.

Written notice required.

Service of notice.

municipality an additional bond, as required by law, conditioned for the payment of material furnished and labor supplied or performed in the prosecution of any such public work or improvement, then, in such event, every person, co-partnership, association, or corporation who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of any such public work or improvement, whether or not the said material or labor enter into and become component parts of the work or improvement contemplated, and who has not been paid therefor, shall have the right to sue in assumpsit on said additional bond, in the name of the Commonwealth where the said contract has been entered into with any department or agency thereof, and in the name of the municipality where the said contract has been entered into with such municipality, for his, their, or its use, and to prosecute the same to final judgment, for such sum or sums as may be justly due him, them, or it and to have execution thereon: Provided, however, That such department, agency, or municipality shall not be liable for the payment of any costs or expenses of any suit.

Section 3. No such suit shall be commenced prior to ninety (90) days from the date upon which the said person, co-partnership, association, or corporation furnished, supplied, or performed the last of the material or labor for which the said claim is made; and every such suit shall be commenced not later than one (1) year from the date of final settlement under the said contract with the Commonwealth, acting by or through its said department or agency, or with the said municipality.

Section 4. Any such person, co-partnership, association, or corporation, who has no contractual relationship, express or implied, with the contractor furnishing the said additional bond, shall not have a right of action upon said additional bond, unless the said person, co-partnership, association, or corporation shall have given written notice to said contractor, or to his, their, or its surety, not later than ninety (90) days from the date on which the said person, co-partnership, association, or corporation furnished, supplied, or performed the last of the material or labor for which the said claim is made, stating, with substantial accuracy, the amount claimed and the name of the party with whom the said person, co-partnership, association, or corporation contracted. Said notice shall be served either in the manner now or hereafter provided by law for the service of a summons, save that service need not be made by the sheriff, or by mailing said notice by registered mail, postage prepaid, in an envelope

addressed to the contractor at the contractor's last known place of business or residence, or to the surety at any of its offices or places of business.

Section 5. Every person, co-partnership, association, or corporation, upon application to such department, agency, or municipality, stating that the applicant has furnished, supplied, or performed material or labor in the prosecution of the work as above provided, and that payment has not been made therefor, shall be promptly furnished, at the cost of the applicant, with a certified copy of the said additional bond and contract. A copy of said additional bond or contract, certified as aforesaid, shall be prima facie evidence of the contents and due execution and delivery of the original.

Copy of bond and contract to be furnished upon application.

Copies as prima facie evidence.

Section 6. This act shall take effect thirty days after its final enactment and approval by the Governor.

When effective.

Section 7. The provisions of this act are severable, and, if any of the provisions hereof are held to be unconstitutional, the decision shall not be construed to impair any other provision of this act. It is hereby declared as a legislative intent that this act would have been adopted had such unconstitutional provision not been included herein.

Constitutionality

APPROVED—The 22d day of June, A. D. 1931.

GIFFORD PINCHOT

No. 295

AN ACT

Relating to proceedings where goods or chattels have been levied upon or seized by the sheriff, and claimed to belong to others than the defendant in the execution or process, and relieving the sheriff from liability therefor.

Section 1. Be it enacted, &c., That whenever tangible goods or chattels have been levied upon or seized by the sheriff of any county under any execution or process, except an attachment sur judgment, issued out of any court of this Commonwealth, and the sheriff has been notified that said goods and chattels, or any part of them, belong to any person or persons other than the defendant or defendants in said execution or process, said sheriff or claimant may enter a rule in the court out of which the senior execution or process issued on the persons making adverse claims thereto to show cause why an issue should not be framed to determine the ownership of said goods and chattels; notice of said rule shall be given to the plaintiff and defendant in said execution or process, the claimant or sheriff, and

Sheriff's interpleader.

Duty of sheriff when goods levied on are claimed by others.

Rule to show cause why issue should not be framed.

Notice.