

573.16 Optional and mandatory actions — bond to release.

1. The public corporation, the principal contractor, any claimant for labor or material who has filed a claim, or the surety on any bond given for the performance of the contract, may, at any time after the expiration of thirty days, and not later than sixty days, following the completion and final acceptance of said improvement, bring action in equity in the county where the improvement is located to adjudicate all rights to said fund, or to enforce liability on said bond.

2. Upon written demand of the contractor served, in the manner prescribed for original notices, on the person filing a claim, requiring the claimant to commence action in court to enforce the claim, an action shall be commenced within thirty days, otherwise the retained and unpaid funds due the contractor shall be released. Unpaid funds shall be paid to the contractor within twenty days of the receipt by the public corporation of the release as determined pursuant to [this section](#). Failure to make payment by that date shall cause interest to accrue on the unpaid amount. Interest shall accrue during the period commencing the twenty-first day after the date of release and ending on the date of the payment. The rate of interest shall be determined pursuant to [section 573.14](#). After an action is commenced, upon the general contractor filing with the public corporation or person withholding the funds, a surety bond in double the amount of the claim in controversy, conditioned to pay any final judgment rendered for the claims so filed, the public corporation or person shall pay to the contractor the amount of funds withheld.

[C97, §3103; S13, §1989-a58; C24, 27, 31, 35, 39, §10313; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §573.16]

[91 Acts, ch 148, §3](#)

Referred to in [§384.58](#), [573.14](#), [573.15A](#), [573.18](#)

Action against surety, [§616.15](#)

Manner of service, [R.C.P. 1.302 – 1.315](#)