

it for any other purpose or who communicates the information to any other person other than for the purposes permitted by this subsection is guilty of an aggravated misdemeanor.

Approved April 24, 1987

CHAPTER 60

TRANSIENT MERCHANTS' AND OUT-OF-STATE CONTRACTORS' BONDS

H.F. 394

AN ACT relating to nonlocal business entities, particularly transient merchants and out-of-state contractors and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 81A.4, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The requirements of this section also apply to transient merchants who are licensed in accordance with an ordinance of a city in the state of Iowa.

NEW UNNUMBERED PARAGRAPH. Notwithstanding the above provisions, the bond provided for in this section shall be forfeited to the state of Iowa upon the applicant's failure to pay the total of all taxes payable by or due from the applicant to the state which taxes are administered by the department of revenue and finance. The department shall adopt administrative rules for the collection of the forfeiture. Notice shall be provided to the surety and to the applicant. Notice to the applicant shall be mailed to the applicant's last known address. The applicant or the surety shall have the opportunity to apply to the director of revenue and finance for a hearing within thirty days after the giving of such notice. Upon the failure to timely request a hearing, the bond shall be forfeited. If, after the hearing upon timely request, the director finds that the applicant has failed to pay the total of all taxes payable and the bond is forfeited, the director shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond. The surety shall not have standing to contest the amount of any taxes payable. For purposes of this section "taxes payable" means all tax, penalties, interest, and fees that the department has previously determined to be due by assessment or in an appeal of an assessment.

Sec. 2. **NEW SECTION. 81A.10 ENFORCEMENT.**

The attorney general, or designees of the attorney general, may seek an injunction from a court of competent jurisdiction in order to prohibit sales by a transient merchant who is in violation of this chapter.

Sec. 3. Section 103A.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 25. "Out-of-state contractor" means a person whose principal place of business is in another state, and which contracts to perform construction, installation, or any other work covered by this chapter, in this state.

Sec. 4. **NEW SECTION. 103A.24 BOND FOR OUT-OF-STATE CONTRACTORS.**

An out-of-state contractor, before commencing a contract in excess of five thousand dollars in value in Iowa, shall file a bond with the office of the secretary of state, with sureties to be approved by the secretary of state's office. The bond shall be in the sum of the greater of the following:

1. One thousand dollars.
2. Five percent of the contract price.

Release of the bond shall be conditioned upon the payment of all taxes, including contributions due under the unemployment compensation insurance system, penalties, interest, and

related fees, which may accrue to the state of Iowa or its subdivisions on account of the execution and performance of the contract. If at any time during the term of the bond the department of revenue and finance determines that the amount of the bond is not sufficient to cover the tax liabilities accruing to the state of Iowa or its subdivisions, the department shall require the bond to be increased by an amount the department deems sufficient to cover the tax liabilities accrued and to accrue under the contract. The department shall adopt rules for the collection of the forfeiture. Notice shall be provided to the surety and to the contractor. Notice to the contractor shall be mailed to the contractor's last known address and to the contractor's registered agent for service of process, if any, within the state. The contractor or surety shall have the opportunity to apply to the director of revenue and finance for a hearing within thirty days after the giving of such notice. Upon the failure to timely request a hearing, the bond shall be forfeited. If, after the hearing upon timely request, the department of revenue and finance finds that the contractor has failed to pay the total of all taxes payable, the department shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond. The surety shall not have standing to contest the amount of any taxes payable. For purposes of this section "taxes payable" means all tax, penalties, interest, and fees that the department has previously determined to be due to the state or a subdivision of the state by assessment or in an appeal of an assessment, including contributions to the unemployment compensation insurance system.

Approved April 24, 1987

CHAPTER 61

CONDEMNATION PROCEDURES

H.F. 409

AN ACT relating to the procedures used for the taking of property for public transportation purposes.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 306.27, Code 1987, is amended to read as follows:

306.27 CHANGES FOR SAFETY, ECONOMY, AND UTILITY.

The state department of transportation as to primary roads and the boards of supervisors as to secondary roads on their own motion may change the course of any part of any road or stream, watercourse or dry run and may pond water in order to avoid the construction and maintenance of bridges, or to avoid grades, or railroad crossings, or to straighten a road, or to cut off dangerous corners, turns or intersections on the highway, or to widen a road above statutory width, or for the purpose of preventing the encroachment of a stream, watercourse or dry run upon the highway. The department shall conduct its proceedings in the manner and form prescribed in chapter 472, and the board of supervisors shall use the form prescribed in sections 306.28 to 306.37 or as provided in chapter 472. Changes are subject to chapter 455B.

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