

## Beneficiaries Under A Payment Bond

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When a project involves the construction of public works, or other improvements to a municipal, county, or a state property, a payment bond is typically posted by the general contractor for the project. This is required as lien claims are typically disallowed whenever project involves a state, county or a municipal property.

Instead of being entitled to file a lien claim, relevant parties may instead assert claims against the bond posted by either the general contractor, or subcontractor who posted a payment bond. Under these circumstances, the parties who may pursue a claim against the bond are akin to those who would be entitled to pursue a lien claim on a commercial project. The contractors or suppliers who can file a claim against the bond are delineated by the statute.

N.J.S.A. 2A:44-143 states which parties may bring a claim against a bond posted by either a general contractor or subcontractor. This section provides that subcontractors or material suppliers in contract with the contractor or subcontractor who posted the bond may pursue a bond claim. Further, a subcontractor or material supplier in direct contract with a subcontractor who is in a direct contract with the contractor who posted the bond may also pursue a bond claim. This is the last level at which a bond claims is cut off. In other words, no further than a second tier subcontractor or supplier may pursue a claim against a bond.

Aside from the demarcation as to who may be able to bring a bond claim, a potential subcontractor or supplier should also be wary of N.J.S.A. 2A:44-145, a section which I discuss in another blog. This section concerns the notice of a right to bring a claim against the bond to be filed by each subcontractor or supplier who might be entitled to assert a bond claim.

When a party needs to determine whether they are capable of bringing a bond claim, or whether they should file the appropriate notice with the party who posted the bond, it is suggested that they consult with an attorney. This is to protect their rights, as well as to preserve their ability to bring a claim against the bond.

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