

FORM 23

FINANCIAL GUARANTEE BOND UNDER SUBSECTION 78(10) OF THE CONSTRUCTION LIEN ACT

The surety of this bond is _____ [insert name of surety], an insurer licensed under the Insurance Act to write surety and fidelity insurance.

The principal of this bond is _____ [insert name of principal], a mortgagee of the interest of the owner _____ [insert name of owner] in the premises described in Schedule A to this bond.

The obligees of this bond are all persons having liens in fee or an equitable prior mortgage interest of the principal under subsection 78(2) or (5) of the Act.

WHEREAS, it is the intent of the principal to sell the interest of the owner under a power of sale.

THEREFORE, in view of the conditions contained in this bond, the surety and the principal bind themselves, their heirs, executors, successors and assigns, jointly and severally, to the obligees as follows:

- 1. The principal shall, on or before the date specified in the judgment, order or report for payment, pay to each obligee who has proved a lien the amount determined by the court to be owing to that obligee under subsection 78(2) or (5) of the Act by the principal as mortgagee, unless in the meantime an appeal has been taken from the judgment or report in which case payment is not required until the final disposition of all appeals.
2. The surety, in default of payment by the principal, shall pay to each obligee the amount owing to him by the principal and the surety shall not be liable to pay more than a total maximum amount of \$_____ or a percentage equal to 20 per cent of the amount stated to be the contract price in the Affidavit of Contractors Schedule B.

This bond is subject to the following conditions:

- 1. An obligee shall not make a claim against the surety unless the principal is in default of the principal's obligations under this bond.
2. An obligee shall give the surety thirty days written notice of the claim prior to commencing an action against the surety.
3. The surety is released from its obligation to answer a claim if the obligee has given written notice of the claim to the surety within one year after the date of the principal's default.
4. The amount of the bond shall be reduced by and to the extent of any payment made under the bond.
5. The surety is entitled to an assignment of the rights of an obligee against the principal to the extent of the payment made by the surety.

Signed and sealed by the principal and the surety on the ____ day of _____, _____ and registration of this bond on the title to the premises constitutes delivery of this bond to each obligee.

SIGNED AND SEALED in the presence of:

[Signature of witness]

_____, (seal)
[principal]
_____, (seal)
[surety]

THIS IS A 5-PAGE DOCUMENT.