

Suspend the Rules and Pass the Bill, H.R. 284, With An Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

114TH CONGRESS
1ST SESSION

H. R. 284

To amend title XVIII of the Social Security Act to require State licensure and bid surety bonds for entities submitting bids under the Medicare durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) competitive acquisition program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 12, 2015

Mr. TIBERI (for himself, Mr. LARSON of Connecticut, Mr. KELLY of Pennsylvania, Mr. GIBBS, Mr. JOYCE, Mr. STIVERS, Mr. JOHNSON of Ohio, Mr. DAVID SCOTT of Georgia, Mr. JOHNSON of Georgia, Mr. THOMPSON of Pennsylvania, Mr. NEUGEBAUER, Ms. TSONGAS, Mr. HANNA, Mr. HARPER, Mr. CRENSHAW, Mr. LANGEVIN, Mr. ROE of Tennessee, Ms. PINGREE, Mr. AMODEI, Mr. ROKITA, Mr. RYAN of Ohio, Mrs. MILLER of Michigan, Mr. TIPTON, Mr. BARLETTA, Mrs. WALORSKI, Mr. LOEBSACK, Ms. SLAUGHTER, and Ms. DUCKWORTH) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to require State licensure and bid surety bonds for entities submitting bids under the Medicare durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) competitive acquisition program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare DMEPOS
5 Competitive Bidding Improvement Act of 2015”.

6 **SEC. 2. REQUIRING BID SURETY BONDS AND STATE LICEN-**
7 **SURE FOR ENTITIES SUBMITTING BIDS**
8 **UNDER THE MEDICARE DMEPOS COMPETI-**
9 **TIVE ACQUISITION PROGRAM.**

10 (a) BID SURETY BONDS.—Section 1847(a)(1) of the
11 Social Security Act (42 U.S.C. 1395w–3(a)(1)) is amend-
12 ed by adding at the end the following new subparagraphs:

13 “(G) REQUIRING BID BONDS FOR BIDDING
14 ENTITIES.—With respect to rounds of competi-
15 tions beginning under this subsection for con-
16 tracts beginning not earlier than January 1,
17 2017, and not later than January 1, 2019, an
18 entity may not submit a bid for a competitive
19 acquisition area unless, as of the deadline for
20 bid submission, the entity has obtained (and
21 provided the Secretary with proof of having ob-
22 tained) a bid surety bond (in this paragraph re-
23 ferred to as a ‘bid bond’) in a form specified by
24 the Secretary consistent with subparagraph (H)
25 and in an amount that is not less than \$50,000

1 and not more than \$100,000 for each competi-
2 tive acquisition area in which the entity submits
3 the bid.

4 “(H) TREATMENT OF BID BONDS SUB-
5 MITTED.—

6 “(i) FOR BIDDERS THAT SUBMIT BIDS
7 AT OR BELOW THE MEDIAN AND ARE OF-
8 FERED BUT DO NOT ACCEPT THE CON-
9 TRACT.—In the case of a bidding entity
10 that is offered a contract for any product
11 category for a competitive acquisition area,
12 if—

13 “(I) the entity’s composite bid
14 for such product category and area
15 was at or below the median composite
16 bid rate for all bidding entities in-
17 cluded in the calculation of the single
18 payment amounts for such product
19 category and area; and

20 “(II) the entity does not accept
21 the contract offered for such product
22 category and area,
23 the bid bond submitted by such entity for
24 such area shall be forfeited by the entity
25 and the Secretary shall collect on it.

1 “(ii) TREATMENT OF OTHER BID-
2 DERS.—In the case of a bidding entity for
3 any product category for a competitive ac-
4 quisition area, if the entity does not meet
5 the bid forfeiture conditions in subclauses
6 (I) and (II) of clause (i) for any product
7 category for such area, the bid bond sub-
8 mitted by such entity for such area shall
9 be returned within 90 days of the public
10 announcement of the contract suppliers for
11 such area.”.

12 (b) STATE LICENSURE.—

13 (1) IN GENERAL.—Section 1847(b)(2)(A) of the
14 Social Security Act (42 U.S.C. 1395w-3(b)(2)(A)) is
15 amended by adding at the end the following new
16 clause:

17 “(v) The entity meets applicable State
18 licensure requirements.”.

19 (2) CONSTRUCTION.—Nothing in the amend-
20 ment made by paragraph (1) shall be construed as
21 affecting the authority of the Secretary of Health
22 and Human Services to require State licensure of an
23 entity under the Medicare competitive acquisition
24 program under section 1847 of the Social Security

1 Act (42 U.S.C. 1395w-3) before the date of the en-
2 actment of this Act.

3 (c) GAO REPORT ON BID BOND IMPACT ON SMALL
4 SUPPLIERS.—

5 (1) STUDY.—The Comptroller General of the
6 United States shall conduct a study that evaluates
7 the effect of the bid surety bond requirement under
8 the amendment made by subsection (a) on the par-
9 ticipation of small suppliers in the Medicare
10 DMEPOS competitive acquisition program under
11 section 1847 of the Social Security Act (42 U.S.C.
12 1395w-3).

13 (2) REPORT.—Not later than 6 months after
14 the date contracts are first awarded subject to such
15 bid surety bond requirement, the Comptroller Gen-
16 eral shall submit to Congress a report on the study
17 conducted under paragraph (1). Such report shall
18 include recommendations for changes in such re-
19 quirement in order to ensure robust participation by
20 legitimate small suppliers in the Medicare DMEPOS
21 competition acquisition program.