

114TH CONGRESS  
1ST SESSION

# S. 148

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.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 12, 2015

Mr. PORTMAN (for himself, Mr. CARDIN, Mr. HOEVEN, Mr. CASEY, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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”.

1 **SEC. 2. REQUIRING STATE LICENSURE AND BID SURETY**  
2 **BONDS FOR ENTITIES SUBMITTING BIDS**  
3 **UNDER THE MEDICARE DMEPOS COMPETI-**  
4 **TIVE ACQUISITION PROGRAM.**

5 Section 1847(a)(1) of the Social Security Act (42  
6 U.S.C. 1395w-3(a)(1)) is amended by adding at the end  
7 the following new subparagraphs:

8 “(G) REQUIRING STATE LICENSURE AND  
9 BID BONDS FOR BIDDING ENTITIES.—With re-  
10 spect to rounds of competitions beginning under  
11 this subsection on or after the date of enact-  
12 ment of this subparagraph, the Secretary may  
13 not accept a bid from an entity for an area un-  
14 less, as of the deadline for bid submission—

15 “(i) the entity meets applicable State  
16 licensure requirements for such area for all  
17 items in such bid for a product category;  
18 and

19 “(ii) the entity has obtained (and pro-  
20 vided the Secretary with proof of having  
21 obtained) a bid surety bond (in this para-  
22 graph referred to as a ‘bid bond’) in a  
23 form specified by the Secretary consistent  
24 with subparagraph (H) and in an amount  
25 that is not less than \$50,000 and not more  
26 than \$100,000 for each such area.

1                   “(H) TREATMENT OF BID BONDS SUB-  
2                   MITTED.—

3                   “(i) FOR SUCCESSFUL BIDDERS THAT  
4                   DO NOT ACCEPT THE CONTRACT.—In the  
5                   case of a bidding entity that is offered a  
6                   contract for an area for a product cat-  
7                   egory, if the entity’s composite bid—

8                   “(I) is at or below the product  
9                   category’s median composite bid rate  
10                  for the area and the entity does not  
11                  accept the contract offered for the  
12                  product and area, the bid bond sub-  
13                  mitted shall be forfeited by the bid-  
14                  ding entity and the Secretary shall  
15                  collect on it; or

16                  “(II) is above such median com-  
17                  posite bid rate and the entity chooses  
18                  not to accept a contract for the prod-  
19                  uct category, the bid bond submitted  
20                  shall be returned within 90 days of  
21                  the date of notice of nonacceptance.

22                  “(ii) FOR LOSING BIDDERS.—If a bid-  
23                  ding entity submits a bid that is not ac-  
24                  cepted for an area, the bid bond submitted  
25                  for the entity for such area shall be re-

1 turned within 90 days of the date of notice  
2 of nonacceptance.”.

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