

SENATE SUMMARY OF HOUSE AMENDMENTS

**SB 437 By Senator Appel**

**KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

**PUBLIC CONTRACTS.** Authorizes recovery of attorneys fees and costs under certain circumstances involving certain actions against contractors commenced after expiration of the five year preemptive period. (8/15/10)

**SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL**

1. Deleted provision limiting application to non-residential contracts.
2. Added provision specifying application to actions commenced after the expiration of the five-year period.
3. Deleted reference to the tolling of the prescriptive period.

**DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE**

DIGEST

Appel

SB No. 437

Present law (R.S. 9:2772) grants a 5-year preemptive period for actions against contractors in general involving deficiencies in surveying, design, supervision, or construction of immovables or improvements thereon, but exempts from such preemptive period any action against any such contractor whose fraud has caused the breach of contract or damages sued upon.

Proposed law retains present law and adds that if fraud is alleged in actions commenced after the five-year period and the court determines that the allegation was brought in bad faith and no fraud is found, then the party who made the allegation shall be liable for court costs and attorney fees. If fraud is proven to have occurred, then the party committing the fraud shall be liable for court costs and attorney fees.

(Amends R.S. 9:2772(H)(2))

---

Thomas L. Tyler  
Deputy Chief of Staff