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DIGEST

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SB 131 Reengrossed

2024 Regular Session

Miller

Present law provides that the bond of a legal surety attached to and filed with the notice of contract of a general contractor shall be deemed to conform to the requirements of present law notwithstanding any provision of the bond to the contrary, but the surety shall not be bound for a sum in excess of the total amount expressed in the bond.

Proposed law retains present law but includes that nothing in present law shall be construed to preclude a surety who has furnished such a bond from asserting any defense to the principal obligation that its principal could assert except lack of capacity or discharge in bankruptcy of the principal obligor.

Proposed law provides that except as provided in proposed law, nothing shall be construed to preclude a surety from asserting any defense to the principal obligation that its principal could assert except lack of capacity or discharge in bankruptcy of the principal obligor.

Proposed law provides that sureties and contractors executing payment bonds for public works contracts under proposed law shall be immune from liability for or payment of any claims not required by proposed law.

Proposed law provides that the surety shall be obligated and required to issue payment to a material man for claims by a material man under the following conditions:

- (a) The claim is for materials delivered in conformity with material specifications provided in the order for such materials.
- (b) No sooner than 45 days after material delivery, the material man sends a notice of nonpayment to the general contractor, surety, and the owner.
- (c) The material man has not been paid in full on or before 90 days after material delivery.

Proposed law provides that if the requirements of proposed law are satisfied, the surety shall pay the material man within 10 days after the material man sends a payment notice to the surety.

Proposed law provides that the claim of a material man and right to payment as provided in proposed law is in addition to and not in derogation of any other claims or remedies available to a material man under proposed law.

Proposed law provides that any notice required under present law shall be served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the last known address of the general contractor, bond surety, and the owner.

Proposed law provides that the return receipt indicating that registered mail or certified mail was properly addressed to the last known address of the general contractor, surety, and the owner and deposited in the U.S. mail regardless of whether the registered or certified mail was actually delivered, refused, or unclaimed satisfies the notice provision of present law.

Effective August 1, 2024.

(Amends R.S. 9:4812(D); adds R.S. 9:4812(F))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Makes technical changes.
2. Adds payment provisions for all bonds furnished for public work contracts.
3. Adds requirements and obligations for payment bonds for public work contracts.
4. Clarifies the notice requirements for bonds for public work contracts.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the reengrossed bill:

1. Remove proposed law requiring that payment provisions of all bonds furnished for public work contracts be construed as statutory bond provisions.
2. Remove proposed law relative to bonds failing to contain certain requirements being deemed to incorporate all requirements.