

2020 Regular Session

HOUSE BILL NO. 337

BY REPRESENTATIVE GREGORY MILLER

PUBLIC CONTRACTS: Provides relative to the enforcement of claims under public contracts

1 AN ACT

2 To amend and reenact R.S. 38:2242(B) and (F) and 2247, relative to a claimant's right to
3 assert a claim or privilege against a subcontractor under public contracts; to require
4 proper notice and maturity of claim; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 38:2242(B) and (F) and 2247 are hereby amended and reenacted to
7 read as follows:

8 §2242. Claimant defined; filing of sworn statements of amounts due; payment by
9 contracting authority

10 * * *

11 B. ~~Any claimant may~~ A claimant shall after the maturity of his claim and
12 within forty-five days after the recordation of acceptance of the work by the
13 governing authority or of notice of default of the contractor or subcontractor, file a
14 sworn statement of the amount due him with the governing authority having the
15 work done and record it in the office of the recorder of mortgages for the parish in
16 which the work is done.

17 * * *

18 F. In addition to the other provisions of this Section, if the materialman has
19 not been paid by the subcontractor and has not sent notice of nonpayment to the
20 general contractor and the owner, then the materialman shall lose his right to ~~file a~~

1 ~~privilege or lien on the immovable property~~ assert the claim or privilege provided in
 2 Subsection B. The return receipt indicating that certified mail was properly
 3 addressed to the last known address of the general contractor and the owner and
 4 deposited in the U.S. mail on or before seventy-five days from the last day of the
 5 month in which the material was delivered, regardless of whether the certified mail
 6 was actually delivered, refused, or unclaimed satisfies the notice provision hereof or
 7 no later than the statutory lien period, whichever comes first. The provisions of this
 8 Subsection shall apply only to disputes arising out of recorded contracts.

9 * * *

10 §2247. Construction of Part

11 Nothing in this Part shall be construed to deprive any claimant, as defined in
 12 this Part and who has complied with the notice and recordation requirements of R.S.
 13 38:2242(B), of his right of action on the bond furnished pursuant to this Part,
 14 provided that said action must be brought against the surety or the contractor or both
 15 within one year from the registry of acceptance of the work or of notice of default
 16 of the contractor; except that before any claimant having a direct contractual
 17 relationship with a subcontractor but no contractual relationship with the contractor
 18 shall have a right of action against the contractor or the surety on the bond furnished
 19 by the contractor, he shall in addition to the notice and recordation required in R.S.
 20 38:2242(B) give written notice to said contractor within forty-five days from the
 21 recordation of the notice of acceptance by the owner of the work or notice by the
 22 owner of default, stating with substantial accuracy the amount claimed and the name
 23 of the party to whom the material was furnished or supplied or for whom the labor
 24 or service was done or performed. Such notice shall be served by mailing the same
 25 by registered or certified mail, postage prepaid, in an envelope addressed to the
 26 contractor at any place he maintains an office in the state of Louisiana.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 337 Original

2020 Regular Session

Gregory Miller

Abstract: Provides relative to a materialman preserving a claim against a subcontractor under public contracts.

Present law authorizes a claimant to file a sworn statement of the amount due him with the governing authority having the work done and record it in the office of the recorder of mortgages for the parish in which the work is done. Present law requires the claimant to file a sworn statement after the maturity of his claim and within 45 days after the recordation of acceptance of the work by the governing authority, or within 45 days of notice of default of the contractor or subcontractor.

Proposed law changes present law from permissible to mandatory.

Present law prohibits a materialman from filing a privilege or lien on immovable property if he has not complied with applicable notice and recordation requirements.

Proposed law modifies present law by prohibiting a materialman from asserting a claim or privilege if he has not complied with the notice and recordation requirements.

(Amends R.S. 38:2242(B) and (F) and 2247)