SLS 22RS-1173 REENGROSSED

2022 Regular Session

SENATE BILL NO. 429

BY SENATOR WOMACK

PRIVILEGES/LIENS. Provides for substantial completion of public works. (8/1/22)

AN ACT

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To amend and reenact R.S. 38:2248(B), relative to public works contracts; to provide with respect to substantial completion of public works; to provide for notice and itemization of work to be performed; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:2248(B) is hereby amended and reenacted to read as follows:

§2248. Provisions for withholding payment; effect on liability of contractor or agency; punch list; liquidated damages

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B.(1) All public works contracts shall contain a clause stating that any punch list generated during a construction project shall include the cost estimates for the particular items of work the design professional has developed based on the mobilization, labor, material, and equipment costs of correcting each punch list item. The design professional shall retain his working papers used to determine the punch list items cost estimates should the matter be disputed later. The contracting agency shall not withhold from payment more than the value of the punch list. Punch list items completed shall be paid upon the expiration of the forty-five day lien period.

1 (2) If the public entity occupies or uses the public works, the following 2 shall apply: 3 (a) The punch list shall be furnished to the contractor within ten days of 4 substantial completion, as defined in R.S. 38:2241.1. 5 (b) Within fourteen days of providing the punch list to the contractor, the punch list may be amended by the design professional or the public entity. 6 7 (3) The provisions of this Section shall not be subject to waiver, nor shall 8 these provisions apply to the Department of Transportation and Development. 9

The original instrument was prepared by Lebra Bias. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

DIGEST

SB 429 Reengrossed

2022 Regular Session

Womack

<u>Present law</u> establishes provisions for withholding public works contractor payment.

<u>Proposed law</u> retains <u>present law</u> and provides that if the public entity occupies or uses the public works, the punch list shall be furnished to the contractor within 10 days of substantial completion as defined in R.S. 38:2241.1 and may be amended by the design professional or the public entity up to 14 days after providing the punch list to the contractor.

Effective August 1, 2022.

(Amends R.S. 38:2248(B))

Summary of Amendments Adopted by Senate

<u>Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the original bill</u>

- 1. Provides if the public entity occupies or uses the public works, the punch list shall be furnished to the contractor within 10 days of substantial completion and may be amended by the design professional or the public entity up to 14 days after.
- 2. Changes statutory placement.

Senate Floor Amendments to engrossed bill

- 1. Clarifies that the punch list be provided within 10 days of substantial completion as defined in R.S. 38:2241.1.
- 2. Clarifies that the 14 day period begins after the punch list is provided to the contractor.

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Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.