

SENATE BILL NO. 131

BY SENATOR MILLER

1 AN ACT

2 To enact R.S. 9:4812(F), relative to privileges on immovables; to provide relative to claims
3 against owners and contractors; to provide relative to the furnishing and maintenance
4 of bonds; to provide relative to the liability of sureties; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:4812(F) is hereby enacted to read as follows:

8 §4812. Bond required; terms and conditions

9 * * *

10 **F.(1) Except as provided in Paragraph (2) of this Subsection, nothing in**
11 **this Part shall be construed to preclude a surety from asserting any defense to**
12 **the principal obligation that its principal could assert except lack of capacity or**
13 **discharge in bankruptcy of the principal obligor.**

14 **(2) The surety shall be obligated and required to issue payment to a seller**
15 **for claims by a seller under the following conditions:**

16 **(a) The claim is for the price of movables delivered in conformity with**
17 **the specifications provided in the order for such movables.**

18 **(b) No sooner than forty-five days after delivery of the movables, the**
19 **seller sends a notice of nonpayment to the general contractor, surety, and the**
20 **owner.**

21 **(c) The seller has not been paid in full on or before ninety days after**
22 **delivery of the movables.**

23 **(3) If the requirements of Paragraph (2) of this Subsection are satisfied,**
24 **the surety shall pay the seller within ten days after the seller sends a payment**
25 **notice to the surety.**

26 **(4) The claim of a seller and right to payment as provided in this**
27 **Subsection is in addition to and not in derogation of any other rights, claims, or**

1 remedies available to a seller under this Part.

2 (5) Any notice required under this Section shall be served by mailing the
3 same by registered or certified mail, postage prepaid, in an envelope addressed
4 to the last known address of the general contractor, surety, and the owner. The
5 return receipt indicating that registered mail or certified mail was properly
6 addressed to the last known address of the general contractor, surety, and the
7 owner and deposited in the United States mail regardless of whether the
8 registered or certified mail was actually delivered, refused, or unclaimed
9 satisfies the notice provision of this Section.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____