
DIGEST

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HB 334 Engrossed

2016 Regular Session

Schexnayder

Abstract: Provides relative to the availability of certain penalties under and the enforcement of certain valid public and private contracts.

Present law (R.S. 9:2784(A)) provides that when a contractor or subcontractor receives any payment from the owner for improvements to an immovable, the contractor or subcontractor shall promptly pay such monies received to each subcontractor, sub-subcontractor, or supplier in proportion to the percentage of work completed.

Proposed law specifies that the duty to pay the subcontractor, sub-subcontractor, or supplier pursuant to present law arises when there is a valid contract, and that enforcement of the terms of a valid contract shall not be the cause for reduction of damages pursuant to C.C. Art. 2003 absent a determination by the court of bad faith.

Present law (R.S. 9:3902) provides a 10 percent attorney fee award if the surety on a bond fails to pay his obligation, and it becomes necessary for the creditor to sue.

Proposed law specifies that the present law 10 percent penalty is available when the surety fails to pay pursuant to the bond and a valid contract between the principal on the bond and the creditor.

Present law (R.S. 38:2241(A)(2)) provides that for contracts in excess of \$25,000, the contractor is required to post a bond with good, solvent, and sufficient surety in a sum of not less than 50 percent of the contract price for the payment by the contractor or subcontractor due and owing pursuant to a valid contract to claimants as defined in R.S. 38:2242.

Proposed law specifies that the present law bond requirement is based on a valid contract with the owner or a contractor or subcontractor.

(Amends R.S. 9:2784(A) and 3902 and R.S. 38:2241(A)(2))