

2016 Regular Session

HOUSE BILL NO. 334

BY REPRESENTATIVE SCHEXNAYDER

CONTRACTS: Provides relative to the enforcement of certain private and public construction contracts

1 AN ACT

2 To amend and reenact R.S. 9:2784(A) and R.S. 38:2241(A)(2), relative to the enforcement
3 of certain contracts; to provide relative to payments made pursuant to a contract; to
4 provide relative to the failure to pay an obligation pursuant to a bond; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2784(A) is hereby amended and reenacted to read as follows:

8 §2784. Late payment by contractors to subcontractors and suppliers; penalties

9 A. When a contractor receives any payment from the owner for
10 improvements to an immovable after the issuance of a certificate of payment by the
11 architect or engineer, or when a contractor receives any payment from the owner for
12 improvements to an immovable when no architect or engineer is on the job, the
13 contractor shall promptly pay such monies received to each subcontractor and
14 supplier in proportion to the percentage of work completed prior to the issuance of
15 the certificate of payment by such subcontractor and supplier, or by the owner if no
16 architect or engineer is on the job. Further, whenever a subcontractor receives
17 payment from the contractor, the subcontractor shall promptly pay such monies
18 received to each sub-subcontractor and supplier in proportion to the work completed.

19 Enforcement of the terms of a contract between a claimant and a contractor or a

1 subcontractor shall not be the cause for reduction of damages between those parties
2 pursuant to Civil Code Article 2003 absent a determination by the court of bad faith.

3 * * *

4 Section 2. R.S. 38:2241(A)(2) is hereby amended and reenacted to read as follows:

5 §2241. Written contract and bond

6 A.

7 * * *

8 (2) For each contract in excess of twenty-five thousand dollars per project,
9 the public entity shall require of the contractor a bond with good, solvent, and
10 sufficient surety in a sum of not less than fifty percent of the contract price for the
11 payment by the contractor or subcontractor to ~~claimants~~ a claimant as defined in R.S.
12 38:2242, when the payment is due and owing pursuant to a contract between the
13 claimant and the owner, the contractor, or a subcontractor. The bond furnished shall
14 be a statutory bond and no modification, omissions, additions in or to the terms of
15 the contract, in the plans or specifications, or in the manner and mode of payment
16 shall in any manner diminish, enlarge, or otherwise modify the obligations of the
17 bond. The bond shall be executed by the contractor with surety or sureties approved
18 by the public entity and shall be recorded with the contract in the office of the
19 recorder of mortgages in the parish where the work is to be done not later than thirty
20 days after the work has begun.

21 * * *

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 334 Reengrossed

2016 Regular Session

Schexnayder

Abstract: Provides relative to the enforcement of certain 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 enforcement of the terms of a contract between a claimant and a contractor or a subcontractor 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. 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 to secure payment for when the payment is due and owing pursuant to a contract between the claimant and the owner, contractor, or subcontractor.

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

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Removes all proposed changes to R.S. 9:3902.
2. Removes the term "valid" in all references to a contract.
3. Specifies that the application of fraud relative to a reduction of damages applies to contracts between a claimant and a contractor or subcontractor.
4. Specifies that the bond to secure payment is for when the payment is due and owing pursuant to a contract between the claimant and the owner, contractor, or subcontractor.