

2024 Regular Session

SENATE BILL NO. 131

BY SENATOR MILLER

PRIVILEGES/LIENS. Provides for privileges on immovables. (8/1/24)

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:4812(D) is hereby amended and reenacted and R.S. 9:4812(F) is hereby enacted to read as follows:

§4812. Bond required; terms and conditions

\* \* \*

D. The bond of a legal surety attached to and filed with the notice of contract of a general contractor shall be deemed to conform to the requirements of this part notwithstanding any provision of the bond to the contrary, but the surety shall not be bound for a sum in excess of the total amount expressed in the bond. **Nothing in this Part shall be construed to preclude a surety who has furnished such a bond from asserting any defense to the principal obligation that its principal could assert except lack of capacity or discharge in bankruptcy of the principal**

1 obligor.

2 \* \* \*

3 F.(1) The payment provisions of all bonds furnished for public work  
4 contracts described in this Part, regardless of form or content, shall be  
5 construed as and deemed statutory bond provisions. Except as provided in R.S.  
6 9:4812(F)(2), nothing in this Part shall be construed to preclude a surety from  
7 asserting any defense to the principal obligation that its principal could assert  
8 except lack of capacity or discharge in bankruptcy of the principal obligor. Any  
9 such bond which fails to contain any of the requirements set forth in this Part  
10 shall be deemed to incorporate all of the requirements set forth in this Section.  
11 Language in any such bond containing any obligations beyond the requirements  
12 set forth in this Part shall be deemed surplusage and read out of such bond.  
13 Sureties and contractors executing payment bonds for public works contracts  
14 under this Part shall be immune from liability for or payment of any claims not  
15 required by this Part.

16 (2) The surety shall be obligated and required to issue payment to a  
17 materialman for claims by a materialman under the following conditions:

18 (a) The claim is for materials delivered in conformity with material  
19 specifications provided in the order for such materials.

20 (b) No sooner than forty-five days after material delivery, the  
21 materialman sends a notice of nonpayment to the general contractor, surety,  
22 and the owner.

23 (c) The materialman has not been paid in full on or before ninety days  
24 after material delivery.

25 (3) If the requirements of R.S. 9:4812(F)(2) are satisfied, the surety shall  
26 pay the materialman within ten days after the materialman sends a payment  
27 notice to the surety.

28 (4) The claim of a materialman and right to payment as provided in this  
29 Subsection is in addition to and not in derogation of any other claims or



- (a) The claim is for materials delivered in conformity with material specifications provided in the order for such materials.
- (b) No sooner than 45 days after material delivery, the materialman sends a notice of nonpayment to the general contractor, surety, and the owner.
- (c) The materialman has not been paid in full on or before 90 days after material delivery.

Proposed law provides that if the requirements of proposed law are satisfied, the surety shall pay the materialman within 10 days after the materialman sends a payment notice to the surety.

Proposed law provides that the claim of a materialman and right to payment as provided in proposed law is in addition to and not in derogation of any other claims or remedies available to a materialman under proposed law.

Proposed law provides that any notice required under present law shall be served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the last known address of the general contractor, bond surety, and the owner.

Proposed law provides that the return receipt indicating that registered mail or certified mail was properly addressed to the last known address of the general contractor, surety, and the owner and deposited in the U.S. mail regardless of whether the registered or certified mail was actually delivered, refused, or unclaimed satisfies the notice provision of present law.

Effective August 1, 2024.

(Amends R.S. 9:4812(D); adds R.S. 9:4812(F))

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill

1. Makes technical changes.
2. Adds payment provisions for all bonds furnished for public work contracts.
3. Adds requirements and obligations for payment bonds for public work contracts.
4. Clarifies the notice requirements for bonds for public work contracts.