The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Hanna Gettys.

## DIGEST

SB 131 Reengrossed

## 2024 Regular Session

Miller

<u>Present law</u> provides that 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.

<u>Proposed law</u> retains <u>present law</u> but includes that nothing in <u>present law</u> 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 obligor.

<u>Proposed law</u> provides that the payment provisions of all bonds furnished for public work contracts described in <u>proposed law</u>, regardless of form or content, shall be construed as and deemed statutory bond provisions.

<u>Proposed law</u> provides that except as provided in <u>proposed law</u>, nothing shall be construed to preclude a surety from asserting any defense to the principal obligation that its principal could assert except lack of capacity or discharge in bankruptcy of the principal obligor.

<u>Proposed law</u> provides that any such bond which fails to contain any of the requirements set forth in <u>proposed law</u> shall be deemed to incorporate all of the requirements set forth in <u>proposed law</u>. Provides that language in any such bond containing any obligations beyond the requirements set forth in <u>proposed law</u> shall be deemed surplusage and read out of such bond.

<u>Proposed law</u> provides that sureties and contractors executing payment bonds for public works contracts under <u>proposed law</u> shall be immune from liability for or payment of any claims not required by <u>proposed law</u>.

<u>Proposed law</u> provides that the surety shall be obligated and required to issue payment to a materialman for claims by a materialman under the following conditions:

- (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.

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

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

<u>Proposed law</u> provides that any notice required under <u>present law</u> 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.

<u>Proposed law</u> 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 <u>present law</u>.

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.