

CONFERENCE COMMITTEE REPORT

SB 131

2024 Regular Session

Miller

May 31, 2024

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 131 by Senator Miller, recommend the following concerning the Reengrossed bill:

1. That the Legislative Bureau Amendments proposed by the Legislative Bureau and adopted by the House of Representatives on May 29, 2024 be adopted.
2. That the House Floor Amendments No. 1, 2, 3, 4, 5, 8, 9, 13, 15, 16, and 17 proposed by Representative Muscarello adopted by the House of Representatives on May 29, 2024 be adopted.
3. That the House Floor Amendments No. 6, 7, 10, 11, 12, and 14 proposed by Representative Muscarello adopted by the House of Representatives on May 29, 2024 be rejected.
4. That the following amendments be made to the reengrossed bill:

AMENDMENT NO. 1

On page 2, line 3, after "**F.(1)**" delete the remainder of the line, delete line 4 in its entirety, on line 5, delete "**construed as and deemed statutory bond provisions.**" and at the end of line 5, delete "**R.S.**"

AMENDMENT NO. 2

On page 2, line 6, delete "**9:4812(F)(2)**" and insert "**Paragraph (2) of this Subsection**"

AMENDMENT NO. 3

On page 2, at the end of line 8, delete "**Any**" and delete lines 9 through 15 in their entirety

AMENDMENT NO. 4

On page 2, at the end of line 18, delete "**material**" and insert "**the**" and at the end of line 19, delete "**materials**" and insert "**movables**"

AMENDMENT NO. 5

On page 2, line 20, delete "**material**" and after "**delivery**" insert "**of the movables**"

AMENDMENT NO. 6

On page 2, line 21, change "**materialman**" to "**seller**"

AMENDMENT NO. 7

On page 2, line 23, change "**materialman**" to "**seller**"

AMENDMENT NO. 8

On page 2, line 25, delete "R.S. 9:4812(F)(2)" and insert "Paragraph (2) of this Subsection"

AMENDMENT NO. 9

On page 2, line 26, after "pay the" change "materialman" to "seller" and after "after the" change "materialman" to "seller"

AMENDMENT NO. 10

On page 3, line 2, change "R.S. 9:4812" to "this Section"

AMENDMENT NO. 11

On page 3, line 4, after "contractor," delete "bond"

AMENDMENT NO. 12

On page 3, line 9, change "R.S. 9:4812" to "this Section"

Respectfully submitted,

Senators:

Representatives:

Senator Gregory A. Miller

Representative Nicholas Muscarello, Jr.

Senator Robert Allain

Representative Robby Carter

Senator Glen Womack

Representative Jacob Braud

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

CONFERENCE COMMITTEE REPORT DIGEST

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Keyword and summary of the bill as proposed by the Conference Committee

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

Report adopts House amendments to:

1. Changes terminology from materialman to seller and materials to movables regarding obligations of the surety.

Report rejects House amendments which would have:

1. Added provisions that a bond furnished is a statutory bond and that no modifications, omissions, or additions to the terms of the contract, in the plans or specifications, or in the manner and mode of payment, shall diminish, enlarge, or otherwise modify the obligations of the bonds.
2. Listed a condition for the claim to be in conformity with applicable specifications and terms of the order.
3. Listed a condition for the claim to be no sooner than 45 after delivery of materials to the immovable upon which the work is performed, the seller sends a notice of nonpayment to the general contractor, surety, and the owner.
4. Listed a condition for the claim is that the seller has not been paid for the price of the movables sold on or before 90 days after delivery.
5. Required that the surety shall pay the seller for the price of the movables sold within 10 days after the seller delivers notice to the surety.

Report amends the bill to:

1. Remove the provision that any bond which fails to contain the requirements shall be deemed to incorporate all of the requirements set forth in proposed law.
2. Remove the provision that language in any bond containing any obligations beyond the requirements set forth in proposed law shall be deemed surplusage and read out of such bond.
3. Add that the claim is for the price of movables delivered in conformity with the specifications provided in the order for such movables.
4. Add that no sooner than 45 days after delivery of the movables, the seller sends a notice of nonpayment to the general contractor, surety, and the owner.
5. Add that the seller has not been paid in full on or before 90 days after delivery of the movables.
6. Add that if the requirements of proposed law are satisfied, the surety shall pay the seller for the price of the movables sold within 10 days after the seller delivers notice to the surety.

Digest of the bill as proposed by the Conference Committee

Proposed law provides that except as provided in proposed law, 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.

Proposed law provides that the surety shall be obligated and required to issue payment to a seller for claims by a seller under the following conditions:

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

Proposed law provides that if the requirements of proposed law are satisfied, the surety shall pay the seller for the price of the movables sold within 10 days after the seller delivers notice to the surety.

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

Proposed law provides that any notice required under proposed 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 proposed law.

Effective August 1, 2024.

(Adds R.S. 9:4812(F))