

Regular Session, 2013

HOUSE BILL NO. 362

BY REPRESENTATIVE GUILLORY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PRIVILEGES/LIENS: Provides relative to filing a statement of claim or privilege under the Private Works Act

1 AN ACT

2 To amend and reenact R.S. 9:4822(A)(introductory paragraph), (B), (C)(introductory
3 paragraph), (D)(1)(introductory paragraph), and (J), relative to the Private Works
4 Act; to provide for time limitations within which to file a statement of claim or
5 privilege; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:4822(A)(introductory paragraph), (B), (C)(introductory paragraph),
8 (D)(1)(introductory paragraph), and (J) are hereby amended and reenacted to read as
9 follows:

10 §4822. Preservation of claims and privileges

11 A. If a notice of contract is properly and timely filed in the manner provided
12 by R.S. 9:4811, the persons to whom a claim or privilege is granted by R.S. 9:4802
13 shall within ~~thirty~~ sixty days after the filing of a notice of termination of the work:

14 (1) File a statement of their claims or privilege.

15 (2) Deliver to the owner a copy of the statement of claim or privilege. If the
16 address of the owner is not given in the notice of contract, the claimant is not
17 required to deliver a copy of his statement to the owner.

18 B. A general contractor to whom a privilege is granted by R.S. 9:4801 of this
19 Part, and whose privilege has been preserved in the manner provided by R.S. 9:4811,

1 shall file a statement of his privilege within ~~sixty~~ one hundred twenty days after the
2 filing of the notice of termination or substantial completion of the work.

3 C. Those persons granted a claim and privilege by R.S. 9:4802 for work
4 arising out of a general contract, notice of which is not filed, and other persons
5 granted a privilege under R.S. 9:4801 or a claim and privilege under R.S. 9:4802
6 shall file a statement of their respective claims and privileges within ~~sixty~~ one
7 hundred twenty days after:

- 8 (1) The filing of a notice of termination of the work; or
- 9 (2) The substantial completion or abandonment of the work, if a notice of
10 termination is not filed.

11 D.(1) Notwithstanding the other provisions of this Part, the time for filing
12 a statement of claim or privilege to preserve the privilege granted by R.S. 9:4801(5)
13 expires ~~sixty~~ one hundred twenty days after the latter of:

- 14 (a) The filing of a notice for termination of the work that the services giving
15 rise to the privilege were rendered; or,
- 16 (b) The substantial completion or abandonment of the work if a notice of
17 termination is not filed. This privilege shall have no effect as to third persons
18 acquiring rights in, to, or on the immovable before the statement of claim or
19 privilege is filed.

20 * * *

21 J. Before any person having a direct contractual relationship with a
22 subcontractor, but no contractual relationship with the contractor, shall have a right
23 of action against the contractor or surety on the bond furnished by the contractor, he
24 must record his claim as provided in this Section and give written notice to the
25 contractor within ~~thirty~~ sixty days from the recordation of notice of termination of
26 the work, stating with substantial accuracy the amount claimed and the name of the
27 party to whom the material was furnished or supplied or for whom the labor or
28 service was done or performed. Such notice shall be served by mailing the same by

1 registered or certified mail, postage prepaid, in an envelope addressed to the
2 contractor at any place he maintains an office in the state of Louisiana.

3 * * *

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)]

Guillory

HB No. 362

Abstract: Extends various time limitations within which to file a statement of claim or privilege pursuant to the Private Works Act.

Present law establishes liens and privileges under the Private Works Act and provides procedures for the enforcement of such liens and privileges.

Present law provides that persons to whom a claim or privilege against the owner and contractor is granted by present law (R.S. 9:4802) shall file the statement of their claims or privilege, or deliver to the owner a copy of the statement of claim or privilege, within 30 days after the filing of a notice of termination of the work.

Proposed law retains present law but changes the time limitation from 30 days to 60 days.

Present law provides that a general contractor to whom a privilege against the owner is granted by present law (R.S. 9:4801) shall file a statement of his privilege within 60 days after the filing of the notice of termination or substantial completion of the work.

Proposed law retains present law but changes the time limitation from 60 days to 120 days.

Present law provides that those persons granted a claim and privilege by R.S. 9:4802 for work arising out of a general contract, notice of which is not filed, and other persons granted a privilege under R.S. 9:4801 or a claim and privilege under R.S. 9:4802 shall file a statement of their respective claims and privileges within 60 days after: (1) the filing of a notice of termination of the work; or (2) the substantial completion or abandonment of the work, if a notice of termination is not filed.

Proposed law retains present law but changes the time limitation from 60 days to 120 days.

Present law provides that, notwithstanding other provisions of the Private Works Act, the time for filing a statement of claim or privilege to preserve the privilege granted by R.S. 9:4801(5) expires 60 days after the latter of: (1) the filing of a notice for termination of the work that the services giving rise to the privilege were rendered; or, (2) the substantial completion or abandonment of the work if a notice of termination is not filed.

Proposed law retains present law but changes the time limitation from 60 days to 120 days.

Present law provides that before any person having a direct contractual relationship with a subcontractor, but no contractual relationship with the contractor, shall have a right of action against the contractor or surety on the bond furnished by the contractor, he must record his claim and give written notice to the contractor within 30 days from the recordation of notice of termination of the work, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor or service was done or performed.

Proposed law retains present law but changes the time limitation from 30 days to 60 days.

(Amends R.S. 9:4822(A)(intro. para.), (B), (C)(intro. para.), (D)(1)(intro. para.), and (J))