
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Julie J. Baxter.

DIGEST

Present law relative to construction contracts provides that certain persons have a claim against the owner and general contractor to secure payment of certain obligations arising out of the performance of work under a private construction contract. Further provides that if the seller of movables has not been paid by the subcontractor and has not sent notice of nonpayment to the general contractor and the owner, then the seller shall lose his right to file a privilege or lien on the immovable property. Further provides that the return receipt indicating that certified mail was properly addressed to the last known address of the general contractor and the owner and deposited in the U.S. mail on or before 75 days from the last day of the month in which the material was delivered, regardless of whether the certified mail was actually delivered, refused, or unclaimed satisfies the notice provision or no later than the statutory lien period, whichever comes first. Further provides the provisions of present law shall apply only to disputes arising out of recorded contracts.

Proposed law changes the 75-day period in present law to a 45-day period.

Present law provides that when certain construction contracts in the amount of \$50,000 or more are entered into between an owner and a contractor and, if in accordance with the terms of such contract, funds earned by the contractor are withheld as retainage by the owner from periodic payments due to the contractor, then such funds shall be deposited by the owner into an interest bearing escrow account.

Proposed law increases the minimum value of such construction contracts to \$500,000 instead of \$50,000. Further provides that present law and proposed law shall not be waivable.

Present law provides that in certain public construction contracts, if the materialman has not been paid by the subcontractor and has not sent notice of nonpayment to the general contractor and the owner, then the materialman shall lose his right to file a privilege or lien on the immovable property. Further provides that the return receipt indicating that certified mail was properly addressed to the last known address of the general contractor and the owner and deposited in the U.S. mail on or before 75 days from the last day of the month in which the material was delivered, regardless of whether the certified mail was actually delivered, refused, or unclaimed, satisfies the notice provision hereof or no later than the statutory lien period, whichever comes first. Further provides the provisions of present law shall apply only to disputes arising out of recorded contracts.

Proposed law changes the 75-day period in present law to a 45-day period.

Effective August 1, 2013.

(Amends R.S. 9:4802(G)(3) and 4815(A)(intro para) and R.S. 38:2242(F))