

2016 Regular Session

HOUSE BILL NO. 334

BY REPRESENTATIVE SCHEXNAYDER

CONTRACTS: Provides relative to the enforcement of certain private and public construction contracts

1 AN ACT

2 To amend and reenact R.S. 9:2784(A) and R.S. 38:2241(A)(2), relative to the enforcement
3 of certain contracts; to provide relative to payments made pursuant to a contract; to
4 provide relative to the failure to pay an obligation pursuant to a bond; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2784(A) is hereby amended and reenacted to read as follows:

8 §2784. Late payment by contractors to subcontractors and suppliers; penalties

9 A. When a contractor receives any payment from the owner for
10 improvements to an immovable after the issuance of a certificate of payment by the
11 architect or engineer, or when a contractor receives any payment from the owner for
12 improvements to an immovable when no architect or engineer is on the job, the
13 contractor shall promptly pay such monies received to each subcontractor and
14 supplier in proportion to the percentage of work completed prior to the issuance of
15 the certificate of payment by such subcontractor and supplier, or by the owner if no
16 architect or engineer is on the job. Further, whenever a subcontractor receives
17 payment from the contractor, the subcontractor shall promptly pay such monies
18 received to each sub-subcontractor and supplier in proportion to the work completed.
19 Enforcement of the terms of a contract between a claimant and a contractor or a

Proposed law specifies that enforcement of the terms of a contract between a claimant and a contractor or a subcontractor shall not be the cause for reduction of damages pursuant to C.C. Art. 2003 absent a determination by the court of bad faith.

Present law (R.S. 38:2241(A)(2)) provides that for contracts in excess of \$25,000, the contractor is required to post a bond with good, solvent, and sufficient surety in a sum of not less than 50 percent of the contract price for the payment by the contractor or subcontractor due and owing pursuant to a valid contract to claimants as defined in R.S. 38:2242.

Proposed law specifies that the present law bond requirement is to secure payment for when the payment is due and owing pursuant to a contract between the claimant and the owner, contractor, or subcontractor.

(Amends R.S. 9:2784(A) and R.S. 38:2241(A)(2))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Removes all proposed changes to R.S. 9:3902.
2. Removes the term "valid" in all references to a contract.
3. Specifies that the application of fraud relative to a reduction of damages applies to contracts between a claimant and a contractor or subcontractor.
4. Specifies that the bond to secure payment is for when the payment is due and owing pursuant to a contract between the claimant and the owner, contractor, or subcontractor.