S T A T E O F N E W Y O R K

S. 800 A. 2369

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

January 15, 2009

IN SENATE -- Introduced by Sens. BRESLIN, HUNTLEY, SCHNEIDERMAN, STACHOWSKI, STAVISKY, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

IN ASSEMBLY -- Introduced by M. of A. CUSICK -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to a subcontractor's or materialman's right to file a claim and/or commence an action upon a payment bond

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 2 of section 5-322.1 of the general obligations law is renumbered subdivision 3 and a new subdivision 2 is added to read as follows:

2. A COVENANT, PROMISE, AGREEMENT OR UNDERSTANDING IN, OR IN CONNECTION WITH OR COLLATERAL TO A CONTRACT OR AGREEMENT RELATIVE TO THE CONSTRUCTION, ALTERATION, REPAIR OR MAINTENANCE OF A BUILDING, STRUCTURE, APPURTENANCES AND APPLIANCES INCLUDING MOVING, DEMOLITION AND EXCAVATING CONNECTED THEREWITH, PURPORTING TO CONDITION A SUBCONTRACTOR'S OR MATERIALMAN'S RIGHT TO FILE A CLAIM AND/OR COMMENCE AN ACTION ON A PAYMENT BOND ON EXHAUSTION OF ANOTHER LEGAL REMEDY IS AGAINST PUBLIC POLICY AND IS VOID AND UNENFORCEABLE; PROVIDED THAT THIS SUBDIVISION SHALL NOT AFFECT THE VALIDITY OF ANY INSURANCE CONTRACT, WORKERS' COMPENSATION AGREEMENT OR OTHER AGREEMENT ISSUED BY AN ADMITTED INSURER.

S 2. This act shall take effect immediately.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD00278-01-9