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

S. 6057 A. 8841

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

(PREFILED)

January 4, 2012

IN SENATE -- Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

IN ASSEMBLY -- Introduced by M. of A. CUSICK, P. RIVERA, RUSSELL, STEVENSON, CASTRO -- Multi-Sponsored by -- M. of A. SCHIMEL -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to the unenforceability of a contract clause requiring a contractor or subcontractor to continue unapproved or disputed work

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, as added by chapter 224 of the laws of 2009, is amended 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, (A) 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 OR (B) WHICH REQUIRES A CONTRACTOR OR SUBCONTRACTOR TO COMMENCE OR CONTINUE WORK NOTWITHSTANDING THAT THE WORK AND/OR THE PRICE FOR THE WORK IS IN DISPUTE OR HAS NOT BEEN APPROVED BY THE OWNER 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.

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