

2013-2014 Regular Sessions

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

(PREFILED)

January 9, 2013

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, JAFFEE, ABINANTI, HOOPER, 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:

1 Section 1. Subdivision 2 of section 5-322.1 of the general obligations
2 law, as added by chapter 224 of the laws of 2009, is amended to read as
3 follows:
4 2. A covenant, promise, agreement or understanding in, or in
5 connection with or collateral to a contract or agreement relative to the
6 construction, alteration, repair or maintenance of a building, struc-
7 ture, appurtenances and appliances including moving, demolition and
8 excavating connected therewith, (A) purporting to condition a subcon-
9 tractor's or materialman's right to file a claim and/or commence an
10 action on a payment bond on exhaustion of another legal remedy OR (B)
11 WHICH REQUIRES A CONTRACTOR OR SUBCONTRACTOR TO COMMENCE OR CONTINUE
12 WORK NOTWITHSTANDING THAT THE WORK AND/OR THE PRICE FOR THE WORK IS IN
13 DISPUTE OR HAS NOT BEEN APPROVED BY THE OWNER is against public policy
14 and is void and unenforceable; provided that this subdivision shall not
15 affect the validity of any insurance contract, workers' compensation
16 agreement or other agreement issued by an admitted insurer.
17 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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