



General Assembly

February Session, 2000

Raised Bill No. 550

LCO No. 2212

Referred to Committee on Judiciary

Introduced by:
(JUD)

An Act Concerning Protection For Equipment Rental.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 49-42 of the general statutes is repealed and the following is
2 substituted in lieu thereof:

3 (a) Any person who performed work or supplied materials for which
4 a requisition was submitted to, or for which an estimate was prepared
5 by, the awarding authority and who does not receive full payment for
6 such work or materials within sixty days of the applicable payment date
7 provided for in subsection (a) of section 49-41a, or any person who
8 supplied materials or performed subcontracting work not included on a
9 requisition or estimate who has not received full payment for such
10 materials or work within sixty days after the date such materials were
11 supplied or such work was performed, may enforce his right to payment
12 under the bond by serving a notice of claim on the surety that issued the
13 bond and a copy of such notice to the contractor named as principal in
14 the bond within one hundred eighty days of the applicable payment date
15 provided for in subsection (a) of section 49-41a, or, in the case of a person
16 supplying materials or performing subcontracting work not included on
17 a requisition or estimate, within one hundred eighty days after the date

18 such materials were supplied or such work was performed. The notice of
19 claim shall state with substantial accuracy the amount claimed and the
20 name of the party for whom the work was performed or to whom the
21 materials were supplied, and shall provide a detailed description of the
22 bonded project for which the work or materials were provided. If the
23 content of a notice prepared in accordance with subsection (b) of section
24 49-41a complies with the requirements of this section, a copy of such
25 notice, served within one hundred eighty days of the payment date
26 provided for in subsection (a) of section 49-41a upon the surety that
27 issued the bond and upon the contractor named as principal in the bond,
28 shall satisfy the notice requirements of this section. Within ninety days
29 after service of the notice of claim, the surety shall make payment under
30 the bond and satisfy the claim, or any portion of the claim which is not
31 subject to a good faith dispute, and shall serve a notice on the claimant
32 denying liability for any unpaid portion of the claim. The notices
33 required under this section shall be served by registered or certified mail,
34 postage prepaid in envelopes addressed to any office at which the
35 surety, principal or claimant conducts his business, or in any manner in
36 which civil process may be served. If the surety denies liability on the
37 claim, or any portion thereof, the claimant may bring action upon the
38 payment bond in the Superior Court for such sums and prosecute the
39 action to final execution and judgment. An action to recover on a
40 payment bond under this section shall be privileged with respect to
41 assignment for trial. The court shall not consolidate for trial any action
42 brought under this section with any other action brought on the same
43 bond unless the court finds that a substantial portion of the evidence to
44 be adduced, other than the fact that the claims sought to be consolidated
45 arise under the same general contract, is common to such actions and
46 that consolidation will not result in excessive delays to any claimant
47 whose action was instituted at a time significantly prior to the motion to
48 consolidate. In any such proceeding, the court judgment shall award the
49 prevailing party the costs for bringing such proceeding and allow
50 interest at the rate of interest specified in the labor or materials contract
51 under which the claim arises or, if no such interest rate is specified, at the

52 rate of interest as provided in section 37-3a upon the amount recovered,
53 computed from the date of service of the notice of claim, provided, for
54 any portion of the claim which the court finds was due and payable after
55 the date of service of the notice of claim, such interest shall be computed
56 from the date such portion became due and payable. The court judgment
57 may award reasonable attorneys fees to either party if upon reviewing
58 the entire record, it appears that either the original claim, the surety's
59 denial of liability, or the defense interposed to the claim is without
60 substantial basis in fact or law. Any person having direct contractual
61 relationship with a subcontractor but no contractual relationship express
62 or implied with the contractor furnishing the payment bond shall have a
63 right of action upon the payment bond upon giving written notice of
64 claim as provided in this section.

65 (b) Every suit instituted under this section shall be brought in the
66 name of the person suing, in the superior court for the judicial district
67 where the contract was to be performed, irrespective of the amount in
68 controversy in the suit, but no such suit may be commenced after the
69 expiration of one year after the applicable payment date provided for in
70 subsection (a) of section 49-41a, or, in the case of a person supplying
71 materials or performing subcontracting work not included on a
72 requisition or estimate, no such suit may be commenced after the
73 expiration of one year after the date such materials were supplied or
74 such work was performed.

75 (c) The word "material" as used in sections [49-41] 49-33, as amended
76 by public act 99-153, to 49-43, inclusive, [includes the rental of equipment
77 used] shall include construction equipment and machinery that is rented
78 or leased for use (1) in the prosecution of work provided for in the
79 contract within the meaning of sections 49-33 to 49-43, inclusive, as
80 amended, or (2) in the construction, raising, removal of any building or
81 improvement of any lot or in the site development or subdivision of any
82 plot of land within the meaning of sections 49-33, as amended by public
83 act 99-153, to 49-39, inclusive.

JUD Committee Vote: Yea 39 Nay 0 JF