



Senate Bill No. 493

Public Act No. 06-78

AN ACT CONCERNING SUBCONTRACTOR CLAIMS.

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

Section 1. Section 49-42 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any person who performed work or supplied materials for which a requisition was submitted to, or for which an estimate was prepared by, the awarding authority and who does not receive full payment for such work or materials within sixty days of the applicable payment date provided for in subsection (a) of section 49-41a, as amended, or any person who supplied materials or performed subcontracting work not included on a requisition or estimate who has not received full payment for such materials or work within sixty days after the date such materials were supplied or such work was performed, may enforce such person's right to payment under the bond by serving a notice of claim on the surety that issued the bond and a copy of such notice to the contractor named as principal in the bond [within] not later than one hundred eighty days [of the applicable payment date provided for in subsection (a) of section 49-41a, or, in the case of a person supplying materials or performing subcontracting work not included on a requisition or estimate, within one hundred eighty days] after the last date any such materials were

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supplied or any such work was performed by the claimant. For the payment of retainage, as defined in section 42-158i, such notice shall be served not later than one hundred eighty days after the applicable payment date provided for in subsection (a) of section 49-41a of the 2006 supplement to the general statutes. The notice of claim shall state with substantial accuracy the amount claimed and the name of the party for whom the work was performed or to whom the materials were supplied, and shall provide a detailed description of the bonded project for which the work or materials were provided. If the content of a notice prepared in accordance with subsection (b) of section 49-41a, as amended, complies with the requirements of this section, a copy of such notice, served ~~[within]~~ not later than one hundred eighty days ~~[of]~~ after the ~~[payment]~~ date provided for in ~~[subsection (a) of section 49-41a]~~ this section upon the surety that issued the bond and upon the contractor named as principal in the bond, shall satisfy the notice requirements of this section. ~~[Within]~~ Not later than ninety days after service of the notice of claim, the surety shall make payment under the bond and satisfy the claim, or any portion of the claim which is not subject to a good faith dispute, and shall serve a notice on the claimant denying liability for any unpaid portion of the claim. The notices required under this section shall be served by registered or certified mail, postage prepaid in envelopes addressed to any office at which the surety, principal or claimant conducts business, or in any manner in which civil process may be served. If the surety denies liability on the claim, or any portion thereof, the claimant may bring action upon the payment bond in the Superior Court for such sums and prosecute the action to final execution and judgment. An action to recover on a payment bond under this section shall be privileged with respect to assignment for trial. The court shall not consolidate for trial any action brought under this section with any other action brought on the same bond unless the court finds that a substantial portion of the evidence to be adduced, other than the fact that the claims sought to be consolidated arise under the same general contract, is common to such

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actions and that consolidation will not result in excessive delays to any claimant whose action was instituted at a time significantly prior to the motion to consolidate. In any such proceeding, the court judgment shall award the prevailing party the costs for bringing such proceeding and allow interest at the rate of interest specified in the labor or materials contract under which the claim arises or, if no such interest rate is specified, at the rate of interest as provided in section 37-3a upon the amount recovered, computed from the date of service of the notice of claim, provided, for any portion of the claim which the court finds was due and payable after the date of service of the notice of claim, such interest shall be computed from the date such portion became due and payable. The court judgment may award reasonable attorneys fees to either party if upon reviewing the entire record, it appears that either the original claim, the surety's denial of liability, or the defense interposed to the claim is without substantial basis in fact or law. Any person having direct contractual relationship with a subcontractor but no contractual relationship express or implied with the contractor furnishing the payment bond shall have a right of action upon the payment bond upon giving written notice of claim as provided in this section.

(b) Every suit instituted under this section shall be brought in the name of the person suing, in the superior court for the judicial district where the contract was to be performed, irrespective of the amount in controversy in the suit, but no such suit may be commenced after the expiration of one year after the [applicable payment date provided for in subsection (a) of section 49-41a, or, in the case of a person supplying materials or performing subcontracting work not included on a requisition or estimate, no such suit may be commenced after the expiration of one year after the] last date [such] that materials were supplied or [such] any work was performed by the claimant, except that any such suit solely seeking payment for retainage, as defined in section 42-158i, shall be commenced not later than one year after the

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date payment of such retainage was due, pursuant to the provisions of subsection (a) of section 49-41a of the 2006 supplement to the general statutes.

(c) The word "material" as used in sections 49-33 to 49-43, inclusive, shall include construction equipment and machinery that is rented or leased for use (1) in the prosecution of work provided for in the contract within the meaning of sections 49-33 to 49-43, inclusive, or (2) in the construction, raising or removal of any building or improvement of any lot or in the site development or subdivision of any plot of land within the meaning of sections 49-33 to 49-39, inclusive.

Approved May 30, 2006