HB 928

Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 928 (Delegate Malone)
Commerce and Government Matters

Procurement - Action by Supplier on Payment Security

This bill provides that an executory contract between a supplier and a contractor or subcontractor related to a construction contract for a public body may not waive or require the supplier to waive the right to sue on payment security if the supplier has not been paid in full for the labor or materials within 90 days after the supplier last provided the labor or materials for which the claim is made. A provision in such a contract that conditions payment to the supplier on receipt of payment by the person from a public body or other third party may not waive or abrogate the right of the supplier to sue on payment security. A provision in a contract that violates the bill is void.

Fiscal Summary

State Effect: The impact is small enough that it could be handled with existing resources.

Local Effect: Minimal.

Small Business Effect: Potential meaningful.

Analysis

Current Law: A supplier for a construction contract for a public body may sue on payment security if the supplier has not been paid in full for the labor or materials within 90 days after the supplier last provided the labor or materials for which the claim is made. A supplier who has privity of contract with a subcontractor or sub-subcontractor of a contractor who has provided payment security but has no contractual relationship with the contractor may sue on the security if the supplier gives written notice to the contractor within 90 days after the labor or materials for which the claim is made were last supplied. No provision of law prohibits a

waiver of a right to sue on payment security in a contract related to a construction contract for a public body.

Background: An executory contract between a contractor and any subcontractor related to construction, alteration, or repair of a building, structure, or improvement may not waive or require the subcontractor to waive the right to claim a mechanics' lien or sue on the contractor's bond. A provision in such a contract that conditions payment to the subcontractor on the contractor's receipt of payment from the owner or any other third party may not abrogate or waive the right of the subcontractor to claim a mechanics' lien or sue on the contractor's bond.

Small Business Effect: Dispute resolution costs for small business contractors and subcontractors could increase. Small business suppliers could find it easier to collect for materials or labor already provided.

Additional Information

Prior Introductions: None.

Cross File: SB 740 (Senator Haines) - Economic and Environmental Affairs.

Information Source(s): Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services (Division of Correction), University System of Maryland, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2000
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