

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 122
House Committee Substitute Favorable 8/28/97

Short Title: Public Contracts.

(Public)

Sponsors:

Referred to:

February 17, 1997

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW A CONTRACTOR ON A PUBLIC PROJECT, ON BEHALF OF
2 A SUBCONTRACTOR, TO FILE AN ACTION AGAINST THE OWNER
3 REGARDING A CLAIM ARISING OUT OF THE CONTRACT BETWEEN THE
4 SUBCONTRACTOR AND THE CONTRACTOR FOR THE SAME PROJECT
5 THAT IS THE SUBJECT OF THE CONTRACT BETWEEN THE CONTRACTOR
6 AND THE OWNER AND TO MAKE NO DAMAGE FOR DELAY CLAUSES IN
7 PUBLIC CONTRACTS UNENFORCEABLE.
8

9 The General Assembly of North Carolina enacts:

10 Section 1. Article 8 of Chapter 143 of the General Statutes is amended by
11 adding the following new sections to read:

12 "**§ 143-134.2. Actions by contractor on behalf of subcontractor.**

13 (a) A contractor may, on behalf of a subcontractor of any tier under the contractor,
14 file an action against an owner regarding a claim arising out of or relating to labor,
15 materials, or services furnished by the subcontractor to the contractor pursuant to a
16 contract between the subcontractor and the contractor for the same project that is the
17 subject of the contract between the contractor and the owner.

18 (b) In any action filed by a contractor against an owner under subsection (a) of this
19 section, it shall not be a defense that the costs and damages at issue were incurred by a

1 subcontractor and that subcontractor has not been paid for these costs and damages. The
2 owner shall not be required to pay the contractor for the costs and damages incurred by a
3 subcontractor, unless the subcontractor submits proof to the court that the contractor has
4 paid these costs and damages to the subcontractor.

5 **"§ 143-134.3. No damage for delay clause.**

6 No contractual language forbidding or limiting compensable damages for delays
7 caused solely by the owner or its agent may be enforced in any construction contract let
8 by any board or governing body of the State, or of any institution of State government, or
9 of any county, city, town, or other political subdivision thereof."

10 Section 2. This act becomes effective October 1, 1997, and applies to
11 contracts entered into on or after that date.