



NEW YORK STATE SENATOR

Shirley L. Huntley

Senate Votes To Protect Subcontractor/Supplier Rights

SHIRLEY L. HUNTLEY June 2, 2009

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Law closes contingent payment clause loophole.

(Albany, NY)-Today Senator Shirley L. Huntley (D-Jamaica) announced that the New York State Senate passed (S. 800 Breslin), legislation that will close a loophole contractors used to avoid payments to their subcontractors and material suppliers until they were paid. Under the previous law, contractors were able to avoid payments by invoking a contingent payment clause with the subcontractors and material suppliers.

Further, the Senate's legislation forbids agreements in construction contracts that require exhaustion of another legal remedy before a claim can be filed against the contractors payment bond.

"New York's hard working subcontractors and suppliers deserve protection, and we must stop unethical contractors from using loopholes in the current law to avoid paying them," said Senator Huntley. "A number of years ago it became common practice for contractors to add this contingent payment clause in the contracts of subcontractors. Subcontractors would have to exhaust their lien rights, including foreclosure, before proceeding with any claims against the contractor. This type of provision is unfair to the subcontractor because by the time lien rights are exhausted the one year statute of limitation will almost surely

have run out leaving the subcontractor or supplier high and dry.”

Always working to protect New York’s businessmen and women, Senator noted that this legislation will not unfairly leave the burden of collecting payments on suppliers and subcontractors. In addition, subcontractors and suppliers are now able to pursue all remedies available to them for the collection of payment simultaneously.