

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Beebe**

A Bill ACT 52 OF 1991

SENATE BILL 17

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 5, CHAPTER 37, SUBCHAPTER 5 OF THE
9 ARKANSAS CODE OF 1987, TO CLARIFY THE CRIME OF DEFRAUDING
10 A MATERIALMAN; AND FOR OTHER PURPOSES."

11

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

13

14 SECTION 1. Arkansas Code § 5-37-525 is hereby amended to read as
15 follows:

16 "5-37-525. Defrauding a materialman.

17 (a) A person commits the offense of defrauding a materialman if, being
18 the principal contractor or subcontractor, he knowingly or willfully with the
19 purpose to defraud fails to pay any supplier or subcontractor for materials or
20 goods furnished to the project within thirty (30) days of final receipt of
21 payment under the contract.

22 (b) Defrauding a materialman is a Class D felony if the amount is equal
23 to or greater than five thousand dollars (\$5,000), otherwise, defrauding a
24 materialman is a Class A misdemeanor.

25 (c) This section shall not apply to principal contractors or
26 subcontractors covered by 22-9-101 et seq.

27 (d) It shall be an affirmative defense to prosecution under this
28 section that the contractor or subcontractor has given notice of a dispute in
29 the terms, conditions, payment, or quality of goods to the contracting
30 consumer or to the supplier or subcontractor, or the contractor has in good
31 faith sought relief in federal court under the bankruptcy laws of the United
32 States, prior to the expiration of the thirty (30) days after receipt of
33 payment under the contract."

34

35 SECTION 2. All provisions of this act of a general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
2 Revision Commission shall incorporate the same in the Code.

3

4 SECTION 3. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

9

10 SECTION 4. All laws and parts of laws in conflict with this act are
11 hereby repealed.

12

APPROVED: 2-7-91

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35