

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

267

By: Senator Kinard

For An Act To Be Entitled

"AN ACT TO ESTABLISH THE CRIME OF DEFRAUDING A MATERIALMAN;
PRESCRIBING THE PENALTIES THEREFORE; AND FOR OTHER PURPOSES."

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

SECTION 1. (a) A person commits the offense of defrauding a materialman if, being the principal contractor or subcontractor, he knowingly or willfully fails to pay any supplier or subcontractor for materials, or goods furnished to the project within thirty (30) days of final receipt of payment under the contract.

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

(c) This act shall not apply to principal contractors or subcontractors covered by the Public Works Acts of Arkansas contained in Title 22, Chapter 9, Arkansas Code of 1987 Annotated, and any amendatory acts thereto.

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

SECTION 2. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. All laws and parts of laws in conflict with this Act are

hereby repealed.

SECTION 4. Emergency clause. It is hereby found and determined by the General Assembly that the present laws of this state are not sufficient to protect materialmen and the public from contractors who knowingly and willfully fail to pay a supplier or subcontractor for materials or goods furnished to a project; that this act establishes criminal penalties for such conduct; and that this act should become effective immediately to protect materialmen and the public in general. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.