

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 573

By: Coates, Leftwich, Myers  
and Rice of the Senate

3  
4 and

5 Sullivan of the House  
6  
7

8 ( Fair Pay for Construction Act - providing  
9 requirements for bond - codification -

10 effective date )  
11

12 AUTHORS: Add the following House Coauthors: Steele and Morgan

13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
14 entire bill and insert

15 "An Act relating to public buildings and public  
16 works; amending Section 6, Chapter 256, O.S.L. 2004  
17 (15 O.S. Supp. 2004, Section 626), as amended by  
18 Section 4, Chapter 92, O.S.L. 2005, and as  
19 renumbered by Section 6, Chapter 92, O.S.L. 2005 (61  
20 O.S. Supp. 2009, Section 226), which relates to  
21 retainage of payments in certain construction  
22 contracts; reducing maximum percentage of retainage  
23 allowed in construction contracts; and declaring an  
24 emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. AMENDATORY Section 6, Chapter 256, O.S.L.  
2 2004 (15 O.S. Supp. 2004, Section 626), as amended by Section 4,  
3 Chapter 92, O.S.L. 2005, and as renumbered by Section 6, Chapter 92,  
4 O.S.L. 2005 (61 O.S. Supp. 2009, Section 226), is amended to read as  
5 follows:

6 Section 226. A. A construction contract may include a  
7 provision for the retainage of a portion of payment due. Such  
8 retainage is not to exceed ~~ten percent (10%)~~ five percent (5%) of  
9 the amount of the payment due. ~~When the gross proper invoice of the~~  
10 ~~prime contractor first equal or exceed fifty percent (50%) of the~~  
11 ~~value of the contract, the amount of retainage withheld thereafter~~  
12 ~~shall not exceed five percent (5%) of the value of the contract.~~

13 B. A subcontract may include a provision for the retainage of a  
14 portion of payment due. Such retainage is not to exceed ~~ten percent~~  
15 ~~(10%)~~ five percent (5%) of the amount of the payment due. ~~When the~~  
16 ~~gross proper invoice of the subcontractor or sub-subcontractor first~~  
17 ~~equal or exceed fifty percent (50%) of the value of the subcontract,~~  
18 ~~the retainage percentage withheld shall not exceed that percentage~~  
19 ~~withheld from the entity withholding retainage.~~

20 C. No later than twenty-one (21) calendar days after a  
21 certificate of substantial completion is issued for the project or  
22 separate usable phase of the project and upon adequate performance  
23 of the prime contractor and with approval of any applicable surety,  
24 retainage shall be released by the owner to the prime contractor

1 less an amount no greater than one hundred fifty percent (150%) of  
2 the estimated costs to correct any incomplete or defective work as  
3 identified, itemized, and attached to the certificate of substantial  
4 completion. All remaining funds shall be released as each  
5 deficiency is satisfactorily completed. The prime contractor shall  
6 release within ten (10) calendar days of receipt, the share of those  
7 funds that have been withheld from other entities. All other  
8 entities shall release within seven (7) calendar days of receipt,  
9 the share of those funds that have been withheld from other  
10 entities.

11 SECTION 2. It being immediately necessary for the preservation  
12 of the public peace, health and safety, an emergency is hereby  
13 declared to exist, by reason whereof this act shall take effect and  
14 be in full force from and after its passage and approval."

15 Passed the House of Representatives the 12th day of April, 2010.

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18 \_\_\_\_\_  
Presiding Officer of the House of  
Representatives

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20 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2010.

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23 \_\_\_\_\_  
Presiding Officer of the Senate

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