

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1012
_____ Of the printed Bill
Page _____ Section _____ Lines _____
_____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Daniel Sullivan _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 PROPOSED COMMITTEE

4 SUBSTITUTE

5 FOR ENGROSSED

6 SENATE BILL NO. 1012

By: Coates of the Senate

and

Sullivan of the House

7
8
9 PROPOSED COMMITTEE SUBSTITUTE

10 An Act relating to contracts; establishing
11 requirements for certain bid project contracts;
12 specifying language required on certain bid
13 contracts; providing for inclusion of certain payment
14 requirements on certain bid contracts; specifying
15 architects shall not be subject to certain liability;
16 providing for certain payment failures; allowing
17 reduction of payment in certain circumstances;
18 establishing requirements for certain privately
19 negotiated contracts; authorizing the confidentiality
20 of certain negotiations; specifying requirements for
21 certain invited bids; requiring that payment terms
22 for certain negotiated subcontracts shall be the same
23 as for contract; establishing requirements for the
24 suspension of work in certain circumstances;
providing requirements for the resumption of work in
certain circumstances; specifying certain dwellings
shall not be subject to act; specifying unenforceable
provisions in certain contracts; providing for
codification; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 820 of Title 15, unless there is
3 created a duplication in numbering, reads as follows:

4 A. Bid Projects.

5 1. On all private construction projects in which a set of plans
6 or specifications or both plans and specifications are issued for
7 bid, the owner shall specify in writing the frequency and time
8 period for payments to the prime contractor. The general
9 specifications and the first page of all bid plans shall include the
10 following, or substantially similar, language:

11 OWNER SHALL ISSUE PAYMENTS WITH A FREQUENCY OF _____.

12 OWNER SHALL ISSUE EACH PAYMENT TO THE PRIME CONTRACTOR WITHIN
13 _____ DAYS AFTER RECEIPT OF CONTRACTOR'S BILLING.

14 Any resulting contract shall include the payment frequency and time
15 period prescribed in the general specifications and bid plans. An
16 architect preparing the plans and specifications for the owner, as
17 required by this section, shall not be liable in tort for the
18 failure to include the payment terms on a set of plans or
19 specifications used for bidding purposes.

20 2. If the owner fails to comply with the provisions of
21 paragraph 1 of this subsection, the following shall be applicable:

- 22 a. the owner shall make monthly progress payments, and
- 23 b. payments shall be due within twenty-eight (28)
- 24 calendar days after receipt of billing.

1 3. The owner may reduce the progress payment as provided for in
2 the contract.

3 4. Subcontractors shall be paid by the prime contractor within
4 ten (10) calendar days of payment from the owner. Payment may be
5 reduced as provided for in the contract.

6 B. Private Negotiated Projects.

7 1. The provisions of subsection A of this section shall not be
8 applicable to private negotiated projects.

9 2. An owner may choose to negotiate a construction contract
10 with a contractor, and may also choose to keep the payment terms of
11 that contract private.

12 3. If a contractor invites a subcontractor to bid on any
13 portion of a negotiated project, the contractor shall clearly define
14 the contractor's payment term upon issuance of the invitation to
15 bid. Such payment term shall be defined as to the frequency that
16 payments shall be made, and a specific day of the month that the
17 subcontractor shall expect to receive each payment.

18 4. Any subcontract negotiated pursuant to this subsection shall
19 include the same payment terms as were represented by the prime
20 contractor to the subcontractor prior to the acceptance of the bid
21 of the subcontractor. Payment may be reduced as provided for in the
22 subcontract.

23 C. Suspension of Work for Bid Projects and Private Negotiated
24 Projects.

1 1. The prime contractor may suspend work:

2 a. when payment has not been received within ten (10)
3 calendar days of the date payment should have been
4 received,

5 b. if the prime contractor has complied with the
6 contract, and

7 c. if the prime contractor has given the owner ten (10)
8 calendar days written notice of work suspension
9 delivered by certified mail or other verifiable
10 service.

11 2. Subcontractors may suspend work:

12 a. when payment has not been received within ten (10)
13 calendar days of the date payment should have been
14 received,

15 b. if the subcontractor has complied with the
16 subcontract, and

17 c. if the subcontractor has given the prime contractor
18 ten (10) calendar days written notice of work
19 suspension delivered by certified mail or other
20 verifiable service.

21 D. Resumption of Work.

22 No prime contractor or subcontractor shall be required to resume
23 work until:
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1 1. Receipt of full payment of undisputed portions of
2 outstanding billing;

3 2. The contracted work schedule is extended the number of days
4 of delay; and

5 3. A change order is issued for the verifiable direct cost of
6 suspension, delay and start-up.

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 821 of Title 15, unless there is
9 created a duplication in numbering, reads as follows:

10 A. This act shall not apply to any contract relating to a
11 single-, two-, three-, or four-family dwelling.

12 B. The following are against this state's public policy and are
13 void and unenforceable:

14 1. A provision, covenant, clause or understanding in,
15 collateral to or affecting a construction contract that makes the
16 contract subject to the laws of another state or that requires any
17 litigation, arbitration or other dispute resolution proceeding
18 arising from the contract to be conducted in another state; and

19 2. A provision, covenant, clause or understanding in,
20 collateral to or affecting a construction contract that disallows or
21 alters the rights of any contractor or subcontractor to receive and
22 enforce any and all rights under this act.

23 SECTION 3. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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