

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 573

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

6 and

7 Sullivan of the House

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to public buildings and public works;
11 amending Section 6, Chapter 256, O.S.L. 2004 (15 O.S.
12 Supp. 2004, Section 626), as amended by Section 4,
13 Chapter 92, O.S.L. 2005, and as renumbered by Section
14 6, Chapter 92, O.S.L. 2005 (61 O.S. Supp. 2009,
15 Section 226), which relates to retainage of payments
16 in certain construction contracts; reducing maximum
17 percentage of retainage allowed in construction
18 contracts; and declaring an emergency.

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

20 SECTION 1. AMENDATORY Section 6, Chapter 256, O.S.L.
21 2004 (15 O.S. Supp. 2004, Section 626), as amended by Section 4,
22 Chapter 92, O.S.L. 2005, and as renumbered by Section 6, Chapter 92,
23 O.S.L. 2005 (61 O.S. Supp. 2009, Section 226), is amended to read as
24 follows:

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

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

15 C. No later than twenty-one (21) calendar days after a
16 certificate of substantial completion is issued for the project or
17 separate usable phase of the project and upon adequate performance
18 of the prime contractor and with approval of any applicable surety,
19 retainage shall be released by the owner to the prime contractor
20 less an amount no greater than one hundred fifty percent (150%) of
21 the estimated costs to correct any incomplete or defective work as
22 identified, itemized, and attached to the certificate of substantial
23 completion. All remaining funds shall be released as each
24 deficiency is satisfactorily completed. The prime contractor shall

1 release within ten (10) calendar days of receipt, the share of those
2 funds that have been withheld from other entities. All other
3 entities shall release within seven (7) calendar days of receipt,
4 the share of those funds that have been withheld from other
5 entities.

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

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11 52-2-10100 SDR 02/24/10

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