

1 ENGROSSED SENATE  
2 BILL NO. 1012

By: Coates of the Senate

3 and

4 Sullivan of the House

5  
6  
7 [ contracts - requiring progress payments be made for  
8 certain private construction contracts -  
9 codification -

10 effective date ]

11

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

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

16 This act shall be known and may be cited as the "Private  
17 Construction Progress Payment Act".

18 SECTION 2. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 820.1 of Title 15, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. On all private construction contracts of a duration of more  
22 than sixty (60) days, the owner shall make progress payments to the  
23 contractor. The owner shall designate the time period in which the  
24 contractor can expect such progress payments by inserting language

1 into the general specifications, and also onto the first page of all  
2 bid plans. Such language shall be as follows or substantially  
3 similar:

4 "OWNER INTENDS TO ISSUE PAYMENT TO CONTRACTOR WITHIN \_\_\_\_  
5 DAYS AFTER RECEIPT OF CONTRACTOR'S BILLING".

6 If the payment time period is not clearly stated as above, then the  
7 owner shall make progress payments within twenty-one (21) days after  
8 receipt of billing and any other contractually required  
9 documentation.

10 B. If a subcontractor or material supplier has performed in  
11 accordance with the provisions of a construction contract, then  
12 payment shall be due to the subcontractor or material supplier no  
13 later than seven (7) days after the contractor receives the  
14 corresponding payment for the work performed.

15 C. If any progress payment under this act is not properly  
16 issued, then it shall be considered a material breach of a  
17 construction contract.

18 D. Notwithstanding the other provisions of this section,  
19 satisfactory performance by a contractor, subcontractor, or material  
20 supplier under a construction contract entitles that entity to  
21 payment from the party with which that entity contracts.

22 E. A contractor may suspend performance of the work or may  
23 terminate a construction contract if that contractor is not properly  
24 paid within fourteen (14) days of when payment should have been

1 received. Written notice must be provided to the owner at least  
2 three (3) days before any such intended suspension or termination.  
3 A subcontractor may suspend performance of the work or may terminate  
4 a construction contract if that subcontractor is not properly paid  
5 within fourteen (14) days of when payment should have been received.  
6 Written notice must be provided to the contractor at least seven (7)  
7 days before any such intended suspension or termination.

8 SECTION 3. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 820.2 of Title 15, unless there  
10 is created a duplication in numbering, reads as follows:

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

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

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

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

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