

ENROLLED SENATE  
BILL NO. 573

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

and

Sullivan, Steele and Morgan  
of the House

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

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

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

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

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

C. No later than twenty-one (21) calendar days after a certificate of substantial completion is issued for the project or separate usable phase of the project and upon adequate performance of the prime contractor and with approval of any applicable surety, retainage shall be released by the owner to the prime contractor less an amount no greater than one hundred fifty percent (150%) of the estimated costs to correct any incomplete or defective work as identified, itemized, and attached to the certificate of substantial completion. All remaining funds shall be released as each deficiency is satisfactorily completed. The prime contractor shall release within ten (10) calendar days of receipt, the share of those funds that have been withheld from other entities. All other entities shall release within seven (7) calendar days of receipt, the share of those funds that have been withheld from other entities.

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

Passed the Senate the 29th day of April, 2010.

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Presiding Officer of the Senate

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

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Presiding Officer of the House