

THE HOUSE OF REPRESENTATIVES
Monday, March 1, 2010

Committee Substitute for
ENGROSSED
Senate Bill No. 573

COMMITTEE SUBSTITUTE FOR ENGROSSED 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:

1 SECTION 1. AMENDATORY Section 6, Chapter 256, O.S.L. 2004 (15 O.S.
2 Supp. 2004, Section 626), as amended by Section 4, Chapter 92, O.S.L. 2005, and as
3 renumbered by Section 6, Chapter 92, O.S.L. 2005 (61 O.S. Supp. 2009, Section 226), is
4 amended to read as follows:
5 Section 226. A. A construction contract may include a provision for the retainage of
6 a portion of payment due. Such retainage is not to exceed ~~ten percent (10%)~~ five percent
7 (5%) of the amount of the payment due. ~~When the gross proper invoice of the prime~~
8 ~~contractor first equal or exceed fifty percent (50%) of the value of the contract, the~~
9 ~~amount of retainage withheld thereafter shall not exceed five percent (5%) of the value of~~
10 ~~the contract.~~

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

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

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

21 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
22 FINANCIAL SERVICES, dated 02-25-10 - DO PASS, As Amended and Coauthored.