

SB 1012

3 Senate Bill No. 1012
4 As Amended

5 SENATE BILL NO. 1012 - By: Coates of the Senate and Sullivan of the
6 House.

7 [contracts - requiring progress payments be made for
8 certain private construction contracts - codification -
9 effective date]

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

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

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

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

19 A. On all private construction contracts of a duration of more
20 than sixty (60) days, the owner shall make progress payments to the
21 contractor. The owner shall designate the time period in which the
22 contractor can expect such progress payments by inserting language
23 into the general specifications, and also onto the first page of all
24 bid plans. Such language shall be as follows or substantially
25 similar:

1 "OWNER INTENDS TO ISSUE PAYMENT TO CONTRACTOR WITHIN ____
2 DAYS AFTER RECEIPT OF CONTRACTOR'S BILLING".

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

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

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

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

19 E. A contractor may suspend performance of the work or may
20 terminate a construction contract if that contractor is not properly
21 paid within fourteen (14) days of when payment should have been
22 received. Written notice must be provided to the owner at least
23 three (3) days before any such intended suspension or termination. A

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

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

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

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

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

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

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 820.3 of Title 15, unless there
3 is created a duplication in numbering, reads as follows:

4 The provisions of this act shall only affect all contracts
5 entered into on or after the effective date of this act.

6 SECTION 5. This act shall become effective November 1, 2009.

7 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-16-09 -
8 DO PASS, As Amended and Coauthored.