

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1478

By: Fields

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5
6 AS INTRODUCED

7 An Act relating to public buildings and public works;
8 amending 61 O.S. 2001, Section 123, as last amended
9 by Section 1, Chapter 263, O.S.L. 2007 (61 O.S. Supp.
10 2008, Section 123), which relates to contractor
11 certification; providing that certification is not
12 needed for certain public improvement projects by
13 school districts; providing for defenses and certain
14 causes of action; requiring certain certification for
15 final estimates; and providing an effective date.

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

17 SECTION 1. AMENDATORY 61 O.S. 2001, Section 123, as last
18 amended by Section 1, Chapter 263, O.S.L. 2007 (61 O.S. Supp. 2008,
19 Section 123), is amended to read as follows:

20 Section 123. A. All statements or invoices submitted to the
21 awarding public agency for work performed shall contain a
22 certification by the supervising architect or engineer, or other
23 supervisory official if no supervisory architect or engineer is
24 employed for the project, that work for which payment is claimed has
been performed and that such work conforms to the plans and

1 specifications for the project. No such statement or invoice shall
2 be paid by the awarding public agency without such certification.
3 The execution of a certificate, as herein provided, shall not
4 constitute a defense or in any other manner affect any cause or
5 causes of action which the awarding public agency might otherwise
6 have against the contractor for nonperformance of a public
7 construction contract.

8 B. If project progressive payments are based on the public
9 agency's estimated quantities of materials provided and work
10 performed, certifications are not required. Payment of progressive
11 estimates shall not constitute a defense or in any manner affect any
12 cause or causes of action which the awarding public agency might
13 have against the contractor for failure to properly perform in
14 accordance with the project contract, plans, specifications, or
15 special provisions. Final estimates shall contain a sworn
16 certification signed by the contractor that the work performed and
17 the material provided conform to the requirements of the contract,
18 plans, specifications, and special provisions.

19 C. For public improvement projects of less than One Hundred
20 Thousand Dollars (\$100,000.00) on a public building owned by a
21 school district which does not involve structural changes to the
22 building, certification as set forth in subsection A of this section
23 shall not be required. Not having certification shall not
24 constitute a defense or in any manner affect any cause or causes of

1 action which the school district might have against the contractor
2 for failure to properly perform in accordance with the project
3 contract, plans, specifications, or special provisions. Final
4 estimates shall contain a sworn certification signed by the
5 contractor that the work performed and the material provided conform
6 to the requirements of the contract, plans, specifications, and
7 special provisions.

8 SECTION 2. This act shall become effective November 1, 2009.

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