

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1012

By: Coates

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5
6 AS INTRODUCED

7 An Act relating to contracts; creating the Private
8 Construction Progress Payment Act; providing short
9 title; requiring progress payments be made for
10 certain private construction contracts; providing for
11 designation of time period; requiring time period be
12 inserted in general specifications and first page of
13 bid plans; providing model language; providing for
14 default time period; providing when payment is due
15 after subcontractor or material supplier performance;
16 providing condition for material breach of contract;
17 providing payment entitlement after satisfactory
18 performance; providing for suspension or termination
19 if proper payment is not made within certain time
20 period; requiring written notice; providing exception
21 to application of act; providing certain provisions
22 to be void and unenforceable; providing provision for
23 application of act; providing for codification; and
24 providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 1. A provision, covenant, clause or understanding in,
23 collateral to or affecting a construction contract that makes the
24 contract subject to the laws of another state or that requires any

1 litigation, arbitration or other dispute resolution proceeding
2 arising from the contract to be conducted in another state; and

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

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

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

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

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