

1 ENGROSSED HOUSE  
2 BILL NO. 2598

By: Wood of the House

3 and

4 Sharp of the Senate

5  
6 An Act relating to public buildings and public works;  
7 amending 61 O.S. 2011, Section 226, which relates to  
8 the Fair Pay for Construction Act; authorizing  
9 subcontractor to submit a request for release of  
10 retainage; requiring release of retainage or written  
11 reasons for refusal; and providing an effective date.

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

13 SECTION 1. AMENDATORY 61 O.S. 2011, Section 226, is  
14 amended to read as follows:

15 Section 226. A. A construction contract may include a  
16 provision for the retainage of a portion of payment due. Such  
17 retainage is not to exceed five percent (5%) of the amount of the  
18 payment due.

19 B. A subcontract may include a provision for the retainage of a  
20 portion of payment due. Such retainage is not to exceed five  
21 percent (5%) of the amount of the payment due. Sixty (60) days  
22 after completion of the subcontractor's scope of work under the  
23 contract, the subcontractor may submit a request to both the prime  
24 contractor and owner for release of all retainage held pursuant to  
this section that is due to the subcontractor. Within thirty (30)

1 days of receipt of the subcontractor's request, the owner shall  
2 either release the retainage that is due to the subcontractor or  
3 submit to the subcontractor in writing the specific reasons for  
4 refusal of the retainage.

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

20 SECTION 2. This act shall become effective November 1, 2016.  
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1 Passed the House of Representatives the 18th day of February,  
2016.

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Presiding Officer of the House  
of Representatives

6 Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2016.

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Presiding Officer of the Senate