

1 **SENATE FLOOR VERSION**

2 February 20, 2017

3 **AS AMENDED**

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9 SENATE BILL NO. 98

By: Newberry

10 **[public buildings and public works - Public**
11 **Competitive Building Act of 1974 - effective date]**

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

SECTION 1. AMENDATORY 61 O.S. 2011, Section 113.1, is
amended to read as follows:

Section 113.1. A. A public construction contract shall provide
for partial payment based upon work completed. **The A** contract
~~shall,~~ not subject to a bond pursuant to Section 1 of this title,
may provide that up to five percent (5%) of all partial payments
made shall be withheld as retainage.

B. The Department of Transportation or the Oklahoma Turnpike
Authority shall not withhold retainage on public construction
contracts awarded by the Department or the Authority.

C. The Department of Transportation shall not withhold
retainage or require any bond on projects awarded to railroads on
the railroad's privately owned or operated rail property.

SECTION 2. AMENDATORY 61 O.S. 2011, Section 226, is
amended to read as follows:

1 Section 226. A. A construction contract, not subject to a bond
2 pursuant to Section 1 of this title, may include a provision for the
3 retainage of a portion of payment due. Such retainage is not to
4 exceed five percent (5%) of the amount of the payment due.

5 B. A subcontract, not subject to a bond pursuant to Section 1
6 of this title, may include a provision for the retainage of a
7 portion of payment due. Such retainage is not to exceed five
8 percent (5%) of the amount of the payment due. **The holder of the**
9 **retainage shall be responsible for payment on all interest accrued.**

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

SECTION 3. This act shall become effective November 1, 2017.

COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
February 20, 2017 - DO PASS AS AMENDED