

1 ENGROSSED SENATE
2 BILL NO. 1520

By: Murdock of the Senate

3 and

4 West (Kevin) of the House

5
6 An Act relating to public buildings; amending 61 O.S.
7 2021, Section 226, which relates to retainage
8 provisions in certain contracts; specifying the
9 retainage amount for specific contracts; and
10 providing an effective date.

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

12 SECTION 1. AMENDATORY 61 O.S. 2021, Section 226, is
13 amended to read as follows:

14 Section 226. A. A construction contract may include a
15 provision for the retainage of a portion of payment due. Such
16 retainage is not to exceed five percent (5%) of the amount of the
17 payment due. If a construction contract is subject to a bond
18 pursuant to this title and when the work of the contractor has been
19 determined by the holder to be at least fifty percent (50%)
20 complete, and with respect to the balance of the work to be
21 performed by the contractor, the retainage amount shall be two and
22 one-half percent (2.5%) of the original contract amount.

23 B. A subcontract shall include a provision for the retainage of
24 a portion of payment due. Such retainage shall not exceed five
percent (5%) of the amount of the payment due. If a construction

1 subcontract is subject to a bond pursuant to this title and when the
2 work of the subcontractor has been determined by the holder to be at
3 least fifty percent (50%) complete, and with respect to the balance
4 of the work to be performed by the subcontractor, the retainage
5 amount shall be two and one-half percent (2.5%) of the original
6 subcontract amount.

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

21 SECTION 2. This act shall become effective November 1, 2022.

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