
Labor & Workplace Standards Committee

SSB 6108

Brief Description: Addressing retainage on private construction projects.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators King, Stanford and Mullet).

<p style="text-align: center;">Brief Summary of Substitute Bill</p> <ul style="list-style-type: none">• Establishes limits on contract retainage for suppliers in private construction projects.

Hearing Date: 2/20/24

Staff: Kelly Leonard (786-7147).

Background:

In 2023 the state established retainage and interest requirements for contractors and subcontractors in private construction projects, excluding single-family residential construction with less than 12 units.

An owner, contractor, or subcontractor may withhold as retainage up to 5 percent of the contract price of the work completed for private construction projects. Partial payment is not acceptance or approval of some of the work or a waiver of defects in the work. The owner, contractor, or subcontractor must pay interest at the rate of 1 percent per month on the final payment due the contractor or subcontractor. The interest commences 30 days after the contractor or subcontractor completes and the owner accepts the work under the contract, and it runs until final payment is tendered to the contractor or subcontractor.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

When the contractor or subcontractor considers the work that the contractor or subcontractor is contracted to perform to be complete, the contractor or subcontractor must notify the party to whom the contractor or subcontractor is responsible for performing the construction work under the contract. The party must, within 15 days after receiving the notice, either accept the work or notify the contractor or subcontractor of work yet to be performed under the contract or subcontract. If the party does not accept the work or does not notify the contractor or subcontractor of work yet to be performed, the interest commences 30 days after the end of the 15-day period.

A contractor may provide notice to an owner or upper-tier contractor for release of retainage due to a subcontractor whose work is complete. If an owner or upper-tier contractor does not accept the subcontractor's work or does not notify the contractor of work yet to be performed by the subcontractor within 15 days after receiving the notice, the interest required commences 30 days after the end of the 15-day period. A contractor's obligation to pay interest to a subcontractor does not begin until the contractor has received payment for the subcontractor's retainage provided that the contractor has submitted the subcontractor's retainage request to the owner or upper-tier contractor within 30 days after receipt from the subcontractor.

In lieu of retainage, a subcontractor or contractor may tender, and a contractor or owner must accept, a retainage bond, which must meet certain requirements. If an owner accepts a bond in lieu of retained funds, the contractor must accept like bonds from any subcontractors or suppliers from which the contractor has retained funds.

Summary of Bill:

Suppliers are added to the requirements for retainage, interest, and notifications in private construction projects. This includes:

- limiting retainage to 5 percent of the contract price;
- requiring suppliers to be paid 1 percent interest on the final payment, beginning 30 days after supplier completes and the owner accepts the work under the contract;
- requiring suppliers to be notified on the acceptance of work according to certain deadlines; and
- allowing a supplier to tender a retainage bond in lieu of retainage, which must meet certain requirements.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.