

HOUSE BILL REPORT

SSB 6108

As Passed House:
February 27, 2024

Title: An act relating to retainage on private construction projects.

Brief Description: Addressing retainage on private construction projects.

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

Brief History:

Committee Activity:

Labor & Workplace Standards: 2/20/24, 2/21/24 [DP].

Floor Activity:

Passed House: 2/27/24, 94-0.

Brief Summary of Substitute Bill

- Extends the limits on retainage in private construction contracts to suppliers.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 9 members: Representatives Berry, Chair; Fosse, Vice Chair; Schmidt, Ranking Minority Member; Bronoske, Doglio, Ormsby, Ortiz-Self, Rude and Ybarra.

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

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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. State law provides certain deadlines for notifications to be sent regarding the completion of work and the acceptance or rejection of work.

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, excluding single-family residential construction with less than 12 units. An owner or contractor may withhold as retainage up to 5 percent of the contract price from suppliers, and must pay interest to suppliers at the rate of 1 percent per month on the final payment, which accrues beginning 30 days after the supplier completes and the owner accepts the work under the contract. A supplier may tender a retainage bond in lieu of retainage, so long as it meets 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.

Staff Summary of Public Testimony:

(In support) The bill adds suppliers to the state law on retainage for private construction contracts. The current law already applies to contractors and subcontractors, but it should also include suppliers for the same policy reasons. This is a minor fix to a bill that passed last legislative session.

(Opposed) None.

Persons Testifying: Senator Curtis King, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.