

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6108

68th Legislature
2024 Regular Session

Passed by the Senate February 8, 2024
Yeas 49 Nays 0

President of the Senate

Passed by the House February 27, 2024
Yeas 94 Nays 0

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6108** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6108

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators King, Stanford, and Mullet)

READ FIRST TIME 01/30/24.

1 AN ACT Relating to retainage on private construction projects;
2 and amending RCW 60.30.010 and 60.30.020.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 60.30.010 and 2023 c 373 s 1 are each amended to
5 read as follows:

6 (1) An owner, contractor, ~~((~~or~~))~~ subcontractor, or supplier may
7 withhold as retainage an amount equal to not more than five percent
8 of the contract price of the work completed for private construction
9 projects. Partial payment allowed under this subsection is not
10 acceptance or approval of some of the work or a waiver of defects in
11 the work.

12 (2) The owner, contractor, ~~((~~or~~))~~ subcontractor, or supplier
13 shall pay interest at the rate of one percent per month on the final
14 payment due the contractor ~~((~~or~~))~~ subcontractor, or supplier. The
15 interest shall commence 30 days after the contractor ~~((~~or~~))~~ subcontractor, or supplier
16 subcontractor, or supplier has completed and the owner has accepted
17 the work under the contract for construction for which the final
18 payment is due. The interest shall run until the date when final
19 payment is tendered to the contractor ~~((~~or~~))~~ subcontractor, or
20 supplier.

1 (3) When the contractor (~~(e)~~), subcontractor, or supplier
2 considers the work that the contractor (~~(e)~~), subcontractor, or
3 supplier is contracted to perform to be complete, the contractor
4 (~~(e)~~), subcontractor, or supplier shall notify the party to whom the
5 contractor (~~(e)~~), subcontractor, or supplier is responsible for
6 performing the construction work under the contract.

7 (4) The party shall, within 15 days after receiving the notice,
8 either accept the work or notify the contractor (~~(e)~~), subcontractor, or supplier
9 of work yet to be performed under the
10 contract or subcontract. If the party does not accept the work or
11 does not notify the contractor (~~(e)~~), subcontractor, or supplier of
12 work yet to be performed within the time allowed, the interest
13 required under this subsection shall commence 30 days after the end
14 of the 15-day period. A contractor may provide notice under this
15 subsection to an owner or upper-tier contractor for release of
16 retainage due to a subcontractor or supplier whose work is complete.
17 If an owner or upper-tier contractor does not accept the
18 subcontractor's or supplier's work or does not notify the contractor
19 of work yet to be performed by the subcontractor or supplier within
20 15 days after receiving the notice, the interest required under this
21 section shall commence 30 days after the end of the 15-day period. A
22 contractor's obligation to pay interest to a subcontractor or
23 supplier under this section does not begin until the contractor has
24 received payment for the subcontractor's or supplier's retainage
25 provided that the contractor has submitted the subcontractor's or
26 supplier's retainage request to the owner or upper-tier contractor
27 within 30 days after receipt from the subcontractor or supplier.

28 (5) This section does not apply to single-family residential
29 construction less than 12 units.

30 **Sec. 2.** RCW 60.30.020 and 2023 c 373 s 2 are each amended to
31 read as follows:

32 (1) In lieu of retainage, a subcontractor, supplier, or
33 contractor may tender, and a contractor or owner must accept, a
34 retainage bond in an amount not to exceed five percent of the moneys
35 earned by the subcontractor, supplier, or contractor.

36 (2) A subcontractor or contractor must provide a good and
37 sufficient bond from an authorized surety company, conditioned that
38 such person or persons must:

39 (a) Faithfully perform all the provisions of such contract;

1 (b) Pay all laborers, mechanics, and subcontractors and material
2 suppliers, and all persons who supply such person or persons, or
3 subcontractors, with provisions and supplies for the carrying on of
4 such work; and

5 (c) Pay the taxes, increases, and penalties incurred on the
6 project.

7 (3) The contractor or owner may require that the authorized
8 surety have a minimum A.M. Best financial strength rating so long as
9 that minimum rating does not exceed A-. The contractor may withhold
10 the subcontractor's or supplier's portion of the bond premium, to the
11 extent the contractor provides a retainage bond to obtain a release
12 of the subcontractor's or supplier's retainage.

13 (4) The contractor or owner must accept a bond meeting the
14 requirements of this section. The subcontractor, supplier, or
15 contractor's bond and any proceeds therefrom are subject to all
16 claims and liens and in the same manner and priority as set forth for
17 retained percentages in the contract and other applicable provisions.

18 (5) Whenever an owner accepts a bond in lieu of retained funds
19 from a contractor, the contractor must accept like bonds from any
20 subcontractors or suppliers from which the contractor has retained
21 funds. The contractor must then release the funds retained from the
22 subcontractor or supplier to the subcontractor or supplier within 30
23 days of accepting the bond from the subcontractor or supplier.

24 (6) This section does not apply to single-family residential
25 construction less than 12 units.

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