

PUBLIC CHAPTER NO. 201**HOUSE BILL NO. 1003****By Representative Curtiss****Substituted for: Senate Bill No. 1275****By Senator Burchett**

AN ACT to amend Tennessee Code Annotated, Section 4-15-102; Section 66-11-144 and Title 66, Chapter 34, relative to retainage on certain contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 66-11-144(a), is amended by adding the language "interest bearing" between the word "separate" and the word "escrow".

SECTION 2. Tennessee Code Annotated, Section 66-11-144(c), is amended by deleting the words "any interest" and by substituting instead the words "all interest".

SECTION 3. Tennessee Code Annotated, Title 66, Chapter 34, Part 1, is amended by adding the following language as a new, appropriately designated section:

66-34-1__.

(a) All construction contracts on any project in this state, both public and private, may provide for the withholding of retainage, provided, however, that the retainage amount may not exceed five percent (5%) of the amount of such contract.

(b) The owner, whether public or private, shall release and pay all retainages for work completed pursuant to the terms of any contract to the prime contractor within ninety (90) days after completion of such work or within ninety (90) days after substantial completion of the project for work completed, whichever occurs first. As used in this subsection, work completed shall be construed to mean the completion of the scope of the work and all terms and conditions covered by the contract under which the retainage is being held. The prime contractor shall pay all retainages due any subcontractor within ten (10) days after receipt of such retainages from the owner. Any subcontractor receiving such retainage from the prime contractor shall pay to any sub-subcontractor or material supplier all retainages due such sub-subcontractor or material supplier within ten (10) days after receipt of such retainages.

(c) Any default in the making of such payments shall be subject to those remedies provided in this part.

SECTION 4. Tennessee Code Annotated, Section 66-34-203, is amended by deleting the period at the end of the last sentence of the section and by substituting instead the language “, provided, however, that the retainage amount may not exceed five percent (5%) of the amount of such contract.”.

SECTION 5. Tennessee Code Annotated, Section 66-34-204, is amended by changing the period at the end of the language following subdivision (3) to a semi-colon and by adding the language “provided, however, that such retainage must be paid within ninety (90) days after the date of the occurrence of an event included in subdivision (1), (2) or (3).”.

SECTION 6. Tennessee Code Annotated, Section 66-34-303, is amended by deleting the period at the end of the last sentence of the section and by substituting instead the language “, provided, however, that the retainage amount may not exceed five percent (5%) of the amount of such contract.”.

SECTION 7. This act shall take effect July 1, 2007, the public welfare requiring it and shall apply to all construction contracts to which this act applies entered into on or after the effective date of this act.

PASSED: May 7, 2007



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 22nd day of May 2007



PHIL BREDESEN, GOVERNOR