

# An Act

ENROLLED HOUSE  
BILL NO. 1114

By: West (Kevin) of the House

and

Pederson of the Senate

An Act relating to public buildings and public works; amending 61 O.S. 2011, Section 226, which relates to the Fair Pay for Construction Act; modifying retainage on certain public contracts; and providing an effective date.

SUBJECT: Public construction

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

SECTION 1. AMENDATORY 61 O.S. 2011, Section 226, is amended to read as follows:

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

B. A subcontract ~~may~~ shall include a provision for the retainage of a portion of payment due. Such retainage ~~is not to~~ shall not exceed five percent (5%) of the amount of the payment due. If a construction subcontract is subject to a bond pursuant to this title and when the work of the subcontractor has been determined by the holder to be at least fifty percent (50%) complete, and with respect to the balance of the work to be performed by the

subcontractor, the retainage amount shall be two and one-half percent (2.5%).

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

SECTION 2. This act shall become effective November 1, 2019.

Passed the House of Representatives the 15th day of May, 2019.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 22nd day of May, 2019.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_