

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H2/17/15

A Bill

HOUSE BILL 1008

5 By: Representative Murdock
6

For An Act To Be Entitled

8 AN ACT TO REGULATE THE FAIRNESS IN THE BIDDING
9 PRACTICES FOR THE CONSTRUCTION OF PUBLICLY FUNDED
10 PROJECTS; TO MODIFY THE RETAINAGE LAWS OF THE STATE
11 OF ARKANSAS; AND FOR OTHER PURPOSES.
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Subtitle

14 TO REGULATE THE FAIRNESS IN THE BIDDING
15 PRACTICES FOR THE CONSTRUCTION OF
16 PUBLICLY FUNDED PROJECTS; AND TO MODIFY
17 THE RETAINAGE LAWS OF THE STATE OF
18 ARKANSAS.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 *SECTION 1. Arkansas Code § 22-9-604 is amended to read as follows:*
25 *22-9-604. Procedure.*

26 *(a)(1)(A) In the case of a construction contract entered into between*
27 *a public agency and a contractor who is required to furnish a performance and*
28 *payment bond, the contractor shall be entitled to payment of ninety-five*
29 *percent (95%) of the earned progress payments when due, with the public*
30 *agency retaining five percent (5%) to assure faithful performance of the*
31 *construction contract.*

32 *(B) Upon the approval of the design consultant, if the*
33 *contractor completes fifty percent (50%) of the construction contract the*
34 *public agency shall not retain any further moneys.*

35 *(2) If the construction contract allows for phased work in which*
36 *completion may occur on a partial occupancy, any retention proceeds withheld*



1 and retained under this section shall be partially released within thirty
2 (30) days under the same conditions under this section in direct proportion
3 to the value of the part of the capital improvement completed.

4 (b)(1) In the case of a construction subcontract entered into between
5 a contractor for a public agency and a subcontractor who is required by the
6 contractor to furnish a performance and payment bond, the subcontractor shall
7 be entitled to payment of ninety-five percent (95%) of the earned progress
8 payments when due, with the contractor retaining five percent (5%) to assure
9 faithful performance of the construction subcontract.

10 (2) Upon the approval of the contractor, if the subcontractor
11 completes fifty percent (50%) of the construction subcontract the contractor
12 shall not retain any further moneys.

13 ~~(b)(c)~~ All sums withheld by the public agency shall be paid to the
14 contractor within thirty (30) days after the construction contract has been
15 completed.

16 ~~(e)(d)~~ In the event the construction contract requires the contractor
17 to purchase and furnish materials or equipment that will be stored on the job
18 site or in a bonded warehouse by the contractor and used in the job as
19 required by the construction contract, no retainage ~~will~~ shall be withheld on
20 that amount of the submitted progress payment pertaining to the cost of these
21 stored materials or equipment.

22 /s/Murdock