

HCS HB 1915 -- CONSTRUCTION CONTRACTS

SPONSOR: Casteel

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Economic Development by a vote of 17 to 0.

The following is a summary of the House Committee Substitute for HB 1915.

This bill modifies provisions relating to private construction contracts.

The bill defines terms including "construction", "contract", "contractor", "owner", "residential real property", "subcontractor", and "substantial completion". The bill specifies that design or construction work includes design, construction, alteration, repair, maintenance, demolition, excavation, and related surveying, architectural, engineering, landscape design, planning, management services, labor, and materials.

For private construction contracts, all parties must make payment according to the terms of the contract or agreement, provided such terms are not inconsistent with the provisions of the bill.

An owner must make progress payments to a contractor and any professional engineer, architect, landscape architect, or land surveyor on at least a monthly basis, on a milestone basis, or on a lump sum basis according to the terms of the contract. Except for lump sum and milestone contracts, payments must be based on estimates prepared at least monthly for work performed and materials delivered or purchased and stored for the project.

The bill specifies when payments are considered received, including when funds are physically delivered, mailed, or electronically transferred.

This bill provides that retainage withheld on private construction contracts or subcontracts must comply with Section 436.303, RSMo. If a subcontractor's work is completed before substantial completion and the subcontractor can be released without risk to the owner, the contractor must request an adjustment in retainage from the owner as necessary to enable payment to the subcontractor. An owner can reduce or eliminate retainage if the work is proceeding satisfactorily.

Upon substantial completion, the owner must pay at least 98% of the retainage, less any offsets or deductions authorized by contract or law, to the contractor. The contractor must pay the subcontractor or supplier after substantial completion and acceptance by the owner's authorized contract representative. Payment must be made within 30 days after acceptance and after required documentation is provided. If the owner or owner's representative determines that the work is not substantially completed and accepted, a written explanation must be provided within 14 calendar days. If the written explanation is not given, the owner must pay at least 98% of the retainage within 30 days.

The bill provides that invoices, estimates, and final payments must be paid promptly and are subject to late payment charges. If the contractor has not been paid within 30 days, the owner must pay interest at a rate of 1.5% per month until fully paid. A person who has not been paid can bring an action in court, and the court may award interest and reasonable attorney's fees to the prevailing party.

Within two business days after payment from the owner to the contractor for one or more subcontractors' work, the owner must notify each subcontractor in writing or electronically. When a contractor receives payment, the contractor must pay each subcontractor and material supplier in proportion to the work completed, less retainage as set forth in Section 436.303. If the contractor receives less than the full payment due, the contractor must disburse the funds on a pro rata basis. If the owner withholds payment for specific rejected work or materials, the affected subcontractor or supplier must not be paid for that portion, provided a written explanation is given, and all other subcontractors and suppliers must be paid in full.

If a contractor, without reasonable cause, fails to pay subcontractors or material suppliers within 15 days after receiving payment, the contractor must pay interest of 1.5% per month until fully paid. This also applies throughout the contracting chain.

The owner must make final payment of all money owed to the contractor, including retainage, less any authorized offsets or deductions, within 30 days of the due date. Final payment is due upon completion of the project and filing of all required documentation or when the project reaches substantial completion.

The bill allows contractors, subcontractors, and owners to withhold payment for specified reasons, including unsatisfactory job progress, defective work, disputed work, failure to comply with material contract provisions, third-party claims, failure to make timely payments for labor or materials, damage to another party, reasonable evidence that the contract cannot be completed for the unpaid balance, or certain citations for violations of law.

The bill allows a contractor to hold future payments until lien waivers are provided and until confirmation of account status is received. The contractor can remedy unpaid balances through legal means provided in the contract, including, but not limited to, joint checks. If a joint check is required, a processing fee of up to \$250 may be charged to the subcontractor and withheld from future payments.

The bill specifies that nothing in this bill requires direct payment by an owner to a subcontractor or supplier.

No late payment interest is owed for payments withheld in good faith for reasonable cause. If a court determines that payment was not withheld in good faith for reasonable cause, the court can impose interest of 1.5% per month and may award reasonable attorney's fees. If a court determines that a cause, defense, motion, or proceeding was frivolous and in bad faith, the court must require the responsible party to pay costs and reasonable expenses, including attorney's fees.

The provisions of the bill do not apply to construction contracts for work on residential real property.

The bill also modifies retainage provisions. A private design or construction contract can include retainage of up to 10% of the payment due, unless additional sums are retained to protect the owner's interest due to nonperformance. There must be no retainage if the contractor and each subcontractor at every tier are bonded for both payment and performance. Retainage must be held by the owner in trust for the benefit of the contractor, subcontractors, sub-subcontractors, and suppliers at any tier who are not in default.

This bill is similar to HB 1089 (2025) and HB 2139 (2024).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that this bill will help contractors and subcontractors get paid fairly, faster, and ultimately on time with clear payment timelines. The bill will help reduce the amount of lawsuits regarding pay because it clarifies statute on how contracts should be written.

Testifying in person for the bill were Representative Casteel; Mechanical Contractors Association of Eastern Missouri; Mechanical Contractors Association of Kansas City; Sheet Metal and Air Conditioning Contractors National Association; Joshua Klarich Sheet Metal and Air Conditioning Contractors National Association - St. Louis Chapter; Xavier Gassier, National Electrical Contractors Association - St. Louis Chapter; SITE Improvement Association; American Subcontractor Association - Midwest Council; and Construction Employers Coalition.

OPPONENTS: Those who oppose the bill say that this bill would allow subcontractors to stop working on projects if they have a payment dispute. Some raised concerns with the timelines in the bill, saying they were too short and restrictive. Opponents further state this bill will negatively affect residential home construction and the government has no right to interfere with private contracts.

Testifying in person against the bill were The Builders' Association Chapter, AGC; Edward Twehous, Associated General Contractor of Missouri/Twehous Excavating Company Inc.; Associated Builders and Contractors, Heart Of America; Home Builders Association of Central Missouri; St. Louis Home Builders Association; and Arnie Dienoff.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.