

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 804
SENATE BILL 556

AN ACT TO AMEND G.S. 143-134.1 TO REQUIRE TIMELY PAYMENTS TO SUBCONTRACTORS AND TO PREVENT RETAINAGE PERCENTAGES ON SUBCONTRACT PAYMENTS TO EXCEED THOSE ON PRIME CONTRACT PAYMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-134.1 is amended by rewriting the catch line to read:

"§ 143-134.1. Interest on final payments due to prime contractors; payments to subcontractors."

Sec. 2. G.S. 143-134.1 is further amended by designating the present section as subsection (a) and adding subsections (b), (c), and (d) to read:

"(b) Within seven days of receipt by the prime contractor of each periodic or final payment, the prime contractor shall pay the subcontractor based on work completed or service provided under the subcontract. Should any periodic or final payment to the subcontractor be delayed by more than seven days after receipt of periodic or final payment by the prime contractor, the prime contractor shall pay the subcontractor interest, beginning on the eighth day, at the rate of one percent (1%) per month or fraction thereof on such unpaid balance as may be due.

(c) The percentage of retainage on payments made by the prime contractor to the subcontractor shall not exceed the percentage of retainage on payments made by the owner to the prime contractor. Any percentage of retainage on payments made by the prime contractor to the subcontractor that exceeds the percentage of retainage on payments made by the owner to the prime contractor shall be subject to interest to be paid by the prime contractor to the subcontractor at the rate of one percent (1%) per month or fraction thereof.

(d) Nothing in this section shall prevent the prime contractor at the time of application and certification to the owner from withholding application and certification to the owner for payment to the subcontractor for unsatisfactory job progress; defective construction not remedied; disputed work; third party claims filed or reasonable evidence that claim will be filed; failure of subcontractor to make timely payments for labor, equipment, and materials; damage to prime contractor or another subcontractor; reasonable evidence that subcontract cannot be completed for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed the initial percentage retained by the owner."

Sec. 3. This act is effective upon ratification and shall apply only to contracts executed on or after that date.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.