

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 383
Mar 12, 2025
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH30013-MC-22

Short Title: Augment Subcontractor Protections. (Public)

Sponsors: Representative Lowery.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE CHAPTER REGARDING PAYMENTS TO
3 SUBCONTRACTORS TO AUGMENT THE PROTECTIONS AFFORDED BY THAT
4 CHAPTER.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 22C of the General Statutes reads as rewritten:

7 "Chapter 22C.

8 "Payments to Subcontractors.

9 "§ 22C-1. Definitions.Purpose; definitions.

10 (a) Purpose. – The purpose of this Chapter is to increase protections applicable to
11 payments to subcontractors, including declaring clauses of contracts attempting to shift the risk
12 of failure to pay to another by making payment to the other contingent on receipt of payment,
13 such as a pay if paid clause or a pay when paid clause, against the public policy of the State and
14 unenforceable.

15 (b) Definitions. – Unless the context otherwise requires in this Chapter:

- 16 (1) "Contractor" means a person who contracts with an owner to improve real
17 property.
18 (2) "Improve" means to build, effect, alter, repair, or demolish any improvement
19 upon, connected with, or on or beneath the surface of any real property, or to
20 excavate, clear, grade, fill or landscape any real property, or to construct
21 driveways and private roadways, or to furnish materials, including trees and
22 shrubbery, for any of such purposes, or to perform any labor upon such
23 improvements, and shall also mean and include any design or other
24 professional or skilled services furnished by architects, engineers, land
25 surveyors and landscape architects registered under Chapters 83A, 89C or
26 89A of the General Statutes.
27 (3) "Improvement" means all or any part of any building, structure, erection,
28 alteration, demolition, excavation, clearing, grading, filling, or landscaping,
29 including trees and shrubbery, driveways, and private roadways, on real
30 property.
31 (4) An "owner" is a person who has an interest in the real property improved and
32 for whom an improvement is made and who ordered the improvement to be
33 made. "Owner" includes successors in interest of the owner and agents of the
34 owner acting within their authority.
35 (5) "Real property" means the real estate that is improved, including lands,
36 leaseholds, tenements and hereditaments, and improvements placed thereon.



(6) "Subcontractor" means any person who has contracted to furnish labor or materials to, or has performed labor for, a contractor or another subcontractor in connection with a contract to improve real property.

"§ 22C-2. Performance by subcontractor.

Performance by a subcontractor in accordance with the provisions of its contract shall entitle it to payment from the party with whom it contracts. Payment by the owner to a contractor is not a condition precedent for payment to a subcontractor and payment by a contractor to a subcontractor is not a condition precedent for payment to any other subcontractor, and an agreement to the contrary is unenforceable.

~~"§ 22C-3. Time of payment to subcontractors after contractor or other subcontractor has been paid payment.~~

(a) When a subcontractor has performed in accordance with the provisions of his contract, the contractor shall pay to his subcontractor and each subcontractor shall pay to his subcontractor, within seven days of receipt by the contractor or subcontractor of each periodic or final payment, the full amount received for such subcontractor's work and materials based on work completed or service provided under the subcontract.

(b) When a subcontractor has performed in accordance with the provisions of his contract, unless earlier required by subsection (a) of this section, the contractor shall pay to his subcontractor and each subcontractor shall pay to his subcontractor, within 30 days of receipt of billing from the payee to the payor, the full amount billed for such subcontractor's work and materials based on work completed or service provided. A contractual provision postponing payment for more than 30 days after performance in accordance with the provisions of the contract and billing is void.

"§ 22C-4. Conditions of payment.

Nothing in this Chapter shall prevent the contractor, at the time of application and certification to the owner, from withholding such 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 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.

"§ 22C-5. Late payments to bear interest.

~~Should any periodic or final payment to a subcontractor required by this Chapter be delayed by more than seven days after receipt of periodic or final payment by the contractor or subcontractor, a maximum time period permitted under this Chapter, the contractor or subcontractor shall pay his subcontractor interest, beginning on the eighth day, first day after the maximum time period, at the rate of one percent (1%) per month or a fraction thereof on such unpaid balance as may be due.~~

"§ 22C-6. Applicability of this Chapter.

The provisions of this Chapter shall not be applicable to residential contractors as defined in G.S. 87 10(1a), or to improvements to real property intended for residential purposes which are exempted from the application of Chapter 83A of the General Statutes pursuant to G.S. 83A-13(c)(1), or to improvements to real property intended for residential purposes which consist of 12 or fewer residential units."

SECTION 2. This act is effective when it becomes law and applies to contracts entered into on or after that date.