

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025**

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HOUSE BILL 383

Short Title: Augment Subcontractor Protections. (Public)

Sponsors: Representative Lowery.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Housing and Development, if favorable, Commerce and Economic Development,
if favorable, Rules, Calendar, and Operations of the House

March 13, 2025

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

The General Assembly of North Carolina enacts:

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

"Chapter 22C.

"Payments to Subcontractors.

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

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

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

- (1) "Contractor" means a person who contracts with an owner to improve real property.
- (2) "Improve" means to build, effect, alter, repair, or demolish any improvement upon, connected with, or on or beneath the surface of any real property, or to excavate, clear, grade, fill or landscape any real property, or to construct driveways and private roadways, or to furnish materials, including trees and shrubbery, for any of such purposes, or to perform any labor upon such improvements, and shall also mean and include any design or other professional or skilled services furnished by architects, engineers, land surveyors and landscape architects registered under Chapters 83A, 89C or 89A of the General Statutes.
- (3) "Improvement" means all or any part of any building, structure, erection, alteration, demolition, excavation, clearing, grading, filling, or landscaping, including trees and shrubbery, driveways, and private roadways, on real property.
- (4) An "owner" is a person who has an interest in the real property improved and for whom an improvement is made and who ordered the improvement to be made. "Owner" includes successors in interest of the owner and agents of the owner acting within their authority.



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- 1 (5) "Real property" means the real estate that is improved, including lands,
2 leaseholds, tenements and hereditaments, and improvements placed thereon.
3 (6) "Subcontractor" means any person who has contracted to furnish labor or
4 materials to, or has performed labor for, a contractor or another subcontractor
5 in connection with a contract to improve real property.

6 **"§ 22C-2. Performance by subcontractor.**

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

12 **"§ 22C-3. ~~Time of payment to subcontractors after contractor or other subcontractor has~~**
13 **~~been paid.~~ payment.**

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

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

26 **"§ 22C-4. Conditions of payment.**

27 Nothing in this Chapter shall prevent the contractor, at the time of application and
28 certification to the owner, from withholding such application and certification to the owner for
29 payment to the subcontractor for: unsatisfactory job progress; defective construction not
30 remedied; disputed work; third party claims filed or reasonable evidence that claim will be filed;
31 failure of subcontractor to make timely payments for labor, equipment, and materials; damage to
32 contractor or another subcontractor; reasonable evidence that subcontract cannot be completed
33 for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed
34 the initial percentage retained by the owner.

35 **"§ 22C-5. Late payments to bear interest.**

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

42 **"§ 22C-6. Applicability of this Chapter.**

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

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