

GREEN SHEET REDIGEST

HB 638

2026 Regular Session

Jacob Landry

CONTRACTORS: Provides relative to payments to contractors and subcontractors.

DIGEST

Present law provides for payment by an owner to a contractor for improvements to an immovable and requires the contractor to promptly pay the subcontractor and suppliers in proportion to the percentage of work completed in certain circumstances. Also requires a subcontractor to pay a sub-subcontractor and supplier in proportion to the work completed.

Present law requires a contractor to pay a contractor, subcontractor, and supplier a prorated portion based on any amount due on payment if the contractor receives less than the full amount of payment from the owner.

Present law provides for the rights of contractors and subcontractors regarding failure of payment after 14 days from receiving payment from the owner which includes a penalty of no more than 15% of the total amount due. Permits the award of court costs and reasonable attorney fees.

Proposed law revises present law to establish the procedure, time delay, and penalties for late payments from an owner or person authorized to act on behalf of an owner to contractors.

Proposed law increases the daily penalty percentage on amounts due from 0.5% to 1.5% per day.

Proposed law requires an owner or person authorized to act on behalf of the owner to make payments to the contractor within 35 days of written request for payment unless any amount is withheld pursuant to proposed law. If payment is not timely made, the contractor is entitled to the amount due and 1.5% of the amount due per day beginning on the day after payment becomes due.

Proposed law requires a contractor that receives any payment from the owner or person authorized to act on behalf of the owner to pay each subcontractor and supplier of work properly performed or for materials suitably stored or specially fabricated, as provided by the contract by the subcontractor or supplier, including any interest accrued, to the extent of the subcontractor's or supplier's interest in the payment.

Proposed law provides that if a contractor or subcontractor, absent a good faith dispute, does not make prompt payments to the subcontractors and suppliers within seven days of receiving payment from the owner or person authorized to act on behalf of an owner, or contractor the subcontractors and suppliers are entitled to the amount due and 1.5% of the amount due per day beginning on the day after payment becomes due.

Proposed law requires the amount not in dispute to be promptly paid if there is a good faith dispute regarding an amount owed.

Proposed law provides that interest on any unpaid amounts stop accruing on the earlier of the delivery of payment, date the payment is mailed if delivered within three days, or date a judgment is rendered.

Proposed law provides that the waiver of any provision of proposed law is absolutely null except as it pertains to certain agreements between the owner and the contractor if the payment is made within 61 days after the owner receives the payment request. Further provides for requirements and penalties as provided by proposed law.

Proposed law authorizes a contractor, subcontractor, or supplier to bring an action under proposed law, in addition to any other rights and remedies provided in present law, to collect amounts due. Further authorizes the award of court costs and attorney fees. Further provides

that nothing in proposed law shall be construed to create a right of action of the contractor, subcontractor, or supplier against a lender or insurer.

Present law provides that present law does not apply to improvements made on immovable property used for residential purposes.

Proposed law repeals present law pertaining to the improvements made on immovable property used for residential purposes.

Proposed law provides that the provisions of proposed law do not apply to contracts with a public entity.

Proposed law provides for the date of payment required of the owner which would change from the later of 35 days after the date the owner receives the payment request to the fifth day after the date the owner receives loan proceeds for the payment that is due, when certain provisions of proposed law are met.

Proposed law provides for certain exemptions. Further provides that proposed law does not apply to the following:

- (1) Agreements authorizing the exploration, production, manufacturing, or development of oil, natural gas, natural gas liquids, synthetic gas, sulphur, ore, chemicals, or other mineral substances, including any lease or royalty agreement, joint interest agreement, production or production-related agreement, operating agreement, farmout agreement, area of mutual interest agreement, or other related agreement.
- (2) Well or mine services.
- (3) The purchase, sale, gathering, storage, or transport of oil, natural gas, natural gas liquids, synthetic gas, or other hydrocarbon substances by pipeline or by a fixed associated facility.

Proposed law defines "agreement" and "well or mine services".

(Amends R.S. 9:2784)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Make technical changes.
2. Provide that the penalties provided by proposed law are in addition to any other lawful remedies and other agreements.
3. Clarify that the penalty rate is 1.5% of the unpaid amount per month and provides that the penalty begins to accrue the day after the date on which the payment is due.
4. Add an exception to a provision of proposed law regarding nullification of agreements waiving rights provided by proposed law.
5. Provide that proposed law does not supercede the provisions for penalties regarding contracts with a public entity.
6. Remove the exception to application of proposed law for construction or improvements to immovable property used for residential purposes.
7. Provide for the date payment is due in certain circumstances.
8. Provide that proposed law does not apply to certain agreements.

9. Define the terms "agreement" and "well or mine services" as it pertains to the exemptions from the provisions of proposed law.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill

1. Make technical changes.
2. Include payment from the contractor in the provision regarding the failure of the contractor or subcontractor to make payment that is due to his subcontractors and suppliers within seven consecutive days of receipt of payment.
3. Clarify that a contractor, subcontractor, or supplier may bring an action to collect the payments and penalties owed in accordance with proposed law.
4. Provide that nothing in proposed law shall be construed to create a right of action, of the contractor, subcontractor, or supplier against a lender or insurer.
5. Provide that the date of payment by the owner shall be the later of 35 days after the date the owner receives the payment request or the fifth day after the date the owner receives loan proceeds for the payment that is due when certain provisions of proposed law are met.
6. Require that the owner, prior to the contractor's payment request, has obtained a loan intended to pay for all or part of a contract to improve immovable property.
7. Delete requirement that the lender is obligated to disburse the proceeds to the owner but has failed to do so within 35 days after the date the owner received the contractor's payment request.
8. Provide that proposed law does not apply to agreements authorizing the exploration, production, manufacturing, or development of oil, natural gas, natural gas liquids, synthetic gas, sulphur, ore, chemicals, or other mineral substances, including any lease or royalty agreement, joint interest agreement, production or production-related agreement, operating agreement, farmout agreement, area of mutual interest agreement, or other related agreement.