

## PROMPT PAYMENT ACT – updated May 16, 2005

HB 509/S 0632 PASSED. It separates the state prompt payment act from the local government prompt payment act. It provides that when a contractor receives payment from a local governmental entity for labor, services, or materials furnished by subcontractors and suppliers hired by the contractor, the contractor must remit payment due to those subcontractors and suppliers within 10 days, rather than 15 days, after the contractor's receipt of payment. The subcontractors have 7 days, rather than 15 days as provided in current law, to pay their subcontractors and suppliers.

Each contract for construction services must provide a "punch list". For projects costing less than \$10 million, the list must be completed within 30 calendar days after reaching substantial completion. If more than \$10 million, the list must be completed within 30 days, unless extended up to 60 days by contract. The contractor may submit a payment request for the appropriate amount of retainage upon completion of all items on the list. In a good faith dispute relating to the list, the local government is authorized to withhold up to 150% of the total costs to complete any incomplete items on the list. If the local government fails to timely develop the required punch list, the contractor may submit a payment request for the appropriate amount of retainage.

There are provisions for interim release of retainage. Up until 50% of the project has been completed, a local government may not withhold as retainage more than 10% of each progress payment to the contractor. After 50%, it may withhold as retainage no more than 5% of future progress payments to the contractor. After reaching 50% completion, the contractor may submit a payment request for up to one-half of the retainage amount held by the local government. The local government must promptly pay unless there is a good-faith dispute.