

Representative Brian S. King proposes the following substitute bill:

CONSTRUCTION TRADES LICENSING ACT

AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Construction Trades Licensing payment provisions.

Highlighted Provisions:

This bill:

- ▶ requires a contractor, subcontractor, or supplier to hold certain construction funds in trust;
 - ▶ establishes provisions governing the funds held in trust and payment of those funds;
- and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-55-603, as renumbered and amended by Laws of Utah 1994, Chapter 181

1st Sub. H.B. 272



26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **58-55-603** is amended to read:

28 **58-55-603. Payment to subcontractors and suppliers.**

29 (1) (a) ~~[When a]~~ A contractor, subcontractor, or supplier who receives ~~[any]~~
30 construction funds from an owner ~~[or another contractor]~~, lender, contractor, subcontractor, or
31 supplier for work performed and billed~~[, he shall pay each of his subcontractors and suppliers]~~
32 shall, for each subcontractor or supplier with whom the contractor, subcontractor, or supplier is
33 in privity of contract:

34 (i) hold the construction funds in trust; and

35 (ii) pay each subcontractor and supplier in proportion to the percentage of the work
36 ~~[they]~~ the subcontractor performed or goods the supplier provided under that billing, to the
37 extent the subcontractor or supplier is legally entitled to the funds, unless otherwise agreed by
38 contract.

39 (b) A contractor, subcontractor, or supplier under Subsection (1)(a) may create a
40 separate construction fund trust account.

41 ~~[(2) If, under this section and without reasonable cause, or unless otherwise agreed by~~
42 ~~contract,]~~

43 (2) (a) Subject to Subsection (2)(b) and unless otherwise agreed by contract, a
44 contractor, subcontractor, or supplier shall pay a subcontractor or supplier, in addition to a
45 payment described in Subsection (1):

46 (i) 1% interest per month of the outstanding amount due;

47 (ii) reasonable costs of any collection; and

48 (iii) a reasonable attorney fee.

49 (b) Subsection (2)(a) does not apply unless the contractor, subcontractor, or supplier
50 fails to pay for work performed by ~~[his subcontractors or suppliers within]~~ a subcontractor or
51 supplier by the later of:

52 (i) 30 ~~[consecutive]~~ calendar days after receiving construction funds from ~~[the]~~ an
53 owner, lender, or another contractor for work performed and billed~~[, or after]; and~~

54 (ii) the last day payment is due under the terms of the ~~[billing, whichever is later, he~~
55 ~~shall pay to the subcontractor or supplier, in addition to the payment, interest in the amount of~~
56 ~~1% per month of the amount due, beginning on the day after payment is due, and reasonable~~

57 costs of any collection and attorney's fees] contract.

58 [~~(3) When a subcontractor receives any construction payment under this section;~~

59 ~~Subsections (1) and (2) apply to that subcontractor.]~~

60 (3) It is a defense to a claim based on a failure to pay funds held in trust under this

61 section that the failure to pay is based on a good faith belief that the claimant is not legally

62 entitled to the funds.

H.B. 272 1st Sub. (Buff) - Construction Trades Licensing Act Amendments

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Contractors who fail to pay their subcontractors in a timely manner could be required to pay additional interest. Enactment of this bill likely will not result in direct, measurable costs and/or benefits for other individuals or local governments.
