

Senate Amendments to House Bill No. 632

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

7 **SECTION 1.** Section 31-5-27, Mississippi Code of 1972, is
8 amended as follows:
9 31-5-27. When a contractor receives any payment under a
10 public construction contract, the contractor shall, upon receipt
11 of that payment, pay each subcontractor and material supplier in
12 proportion to the percentage of work completed by each
13 subcontractor and material supplier. If for any reason the
14 contractor receives less than the full payment due under the
15 public construction contract, the contractor shall be obligated to
16 disburse on a pro rata basis those funds received, with the
17 contractor, subcontractors and material suppliers each receiving a
18 prorated portion based on the amount due on the payment. If the
19 contractor without reasonable cause fails to make any payment to
20 his subcontractors and material suppliers within fifteen (15) days
21 after the receipt of payment under the public construction
22 contract, the contractor shall pay to his subcontractors and
23 material suppliers, in addition to the payment due them, a penalty
24 in the amount of one-half of one percent (1/2 of 1%) per day of
25 the delinquency, calculated from the expiration of the fifteen-day
26 period until fully paid. The total penalty shall not exceed
27 twenty-five percent (25%) of the outstanding balance due. The
28 contractor shall also be liable for all costs of collection
29 including attorneys' fees.

30 **SECTION 2.** Section 87-7-5, Mississippi Code of 1972, is
31 amended as follows:

32 87-7-5. When a prime contractor receives any payment from
33 the owner under a construction contract, other than a public
34 construction contract, the prime contractor shall, upon receipt of
35 that payment, pay each subcontractor and material supplier in
36 proportion to the percentage of work completed by each such
37 subcontractor and material supplier. If for any reason the prime
38 contractor receives less than the full payment due from the owner,
39 the prime contractor shall be obligated to disburse on a pro rata
40 basis those funds received, with the prime contractor,
41 subcontractors and material suppliers each receiving a prorated
42 portion based on the amount due on the payment. If the prime
43 contractor without reasonable cause fails to make any payment to
44 his subcontractors and material suppliers within fifteen (15) days
45 after the receipt of payment from the owner under the construction
46 contract, the prime contractor shall pay to his subcontractors and
47 material suppliers, in addition to the payment due them, a penalty
48 in the amount of one-half of one percent (1/2 of 1%) per day of
49 the delinquency, calculated from the expiration of the fifteen-day
50 period until fully paid. The total penalty shall not exceed
51 twenty-five percent (25%) of the outstanding balance due. The
52 contractor shall also be liable for all costs of collection
53 including attorneys' fees. The provisions of this section shall
54 not be applicable to contracts for the construction of
55 single-family dwellings.

56 **SECTION 3.** This act shall take effect and be in force from
57 and after July 1, 2004, and shall stand repealed from and after
58 June 30, 2004.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTIONS 31-5-27 AND 87-7-5, MISSISSIPPI CODE
2 OF 1972, TO REVISE THE PENALTY IMPOSED WHEN A CONTRACTOR WITHOUT
3 REASONABLE CAUSE FAILS TO TIMELY PAY HIS SUBCONTRACTORS AND
4 MATERIAL SUPPLIERS; TO PROVIDE FOR PAYMENT OF COLLECTION COSTS
5 INCLUDING ATTORNEYS' FEES; AND FOR RELATED PURPOSES.

SS26\HB632PS.J

John O. Gilbert
Secretary of the Senate