

By: Representative Upshaw

To: Judiciary B

HOUSE BILL NO. 716

1 AN ACT TO AMEND SECTION 31-5-25, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE PAYMENT TO A CONTRACTOR WITHIN FORTY-FIVE DAYS OF  
3 SUBMISSION OF AN APPLICATION FOR PAYMENT; AND FOR RELATED  
4 PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 31-5-25, Mississippi Code of 1972, is  
7 amended as follows:

8 31-5-25. (1) All sums due contractors under all public  
9 construction contracts shall be paid as follows:

10 (a) Partial, progress or interim payments: All  
11 partial, progress or interim payments or monies owed contractors  
12 shall be paid when due and payable under the terms of the  
13 contract. If they are not paid within forty-five (45) calendar  
14 days from the day they were due and payable, then they shall bear  
15 interest from the due date until paid at the rate of one percent  
16 (1%) per month until fully paid.

17 (b) Final payments: The final payment of all monies  
18 owed contractors shall be due and payable:

19 (i) At the completion of the project or after the  
20 work has been substantially completed in accordance with the terms  
21 and provisions of the contract;

22 (ii) When the owner beneficially uses or occupies  
23 the project except in the case where the project involves  
24 renovation or alteration to an existing facility in which the  
25 owner maintains beneficial use or occupancy during the course of  
26 the project;

27 (iii) When the project is certified as having been  
28 completed by the architect or engineer authorized to make such  
29 certification; or

30 (iv) When the project is certified as having been  
31 completed by the contracting authority representing the State of  
32 Mississippi or any of its political subdivisions, whichever event  
33 shall first occur.

34 If the contractor is not paid in full within sixty (60)  
35 calendar days from the first occurrence of one (1) of the  
36 above-mentioned events, then said final payment shall bear  
37 interest from the date of said first occurrence at the rate of one  
38 percent (1%) per month until fully paid.

39 In no event shall said final payment due the contractor be  
40 made until the consent of the contractor's surety has been  
41 obtained in writing and delivered to the proper contracting  
42 authority.

43 (c) Contracts for the construction of prison facilities  
44 let or approved by the State Prison Emergency Construction and  
45 Management Board when exercising its emergency powers to remove  
46 two thousand (2,000) inmates from county jails are exempt from  
47 this section; however, this exemption does not apply to contracts  
48 for the construction of private correctional facilities and  
49 additional facilities at the South Mississippi Correctional  
50 Institution and the Central Mississippi Correctional Facility.  
51 This paragraph shall stand repealed from and after July 1, 1996.

52 (2) Contractors shall submit monthly certification to the  
53 project engineer or architect indicating payments to  
54 subcontractors on prior payment request.

55 **SECTION 2.** This act shall take effect and be in force from  
56 and after July 1, 2006.