

By: Senator(s) Mettetal, Jackson (32nd)

To: Public Property; Finance

SENATE BILL NO. 2556

1 AN ACT TO AMEND SECTION 31-5-25, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE TIME PERIOD FOR PAYMENT DUE CONTRACTORS UNDER ALL
3 PUBLIC CONSTRUCTION CONTRACTS; AND FOR RELATED PURPOSES.

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

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

7 31-5-25. (1) All sums due contractors under all public
8 construction contracts shall be paid as follows:

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

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

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

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

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

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

33 If the contractor is not paid in full within forty-five (45)
34 calendar days from the first occurrence of one (1) of the
35 above-mentioned events, then said final payment shall bear
36 interest from the date of said first occurrence at the rate of one
37 percent (1%) per month until fully paid.

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

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

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

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