

By: Representative Smith (39th)

To: Judiciary A

HOUSE BILL NO. 1236

1 AN ACT TO AMEND SECTION 87-7-5, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE PAYMENT OF ALL COSTS INCURRED BY THE PREVAILING PARTY IN
3 DISPUTES BETWEEN CONTRACTORS AND SUBCONTRACTORS; AND FOR RELATED
4 PURPOSES.

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

6 **SECTION 1.** Section 87-7-5, Mississippi Code of 1972, is
7 amended as follows:

8 87-7-5. When a contractor receives any payment from the
9 owner under a construction contract, other than a public
10 construction contract, the contractor shall, upon receipt of that
11 payment, pay each subcontractor and material supplier in
12 proportion to the percentage of work completed by each such
13 subcontractor and material supplier. If for any reason the
14 contractor receives less than the full payment due from the owner,
15 the contractor shall be obligated to disburse on a pro rata basis
16 those funds received, with the contractor, subcontractors and
17 material suppliers each receiving a prorated portion based on the
18 amount due on the payment. If the contractor without reasonable
19 cause fails to make any payment to his subcontractors and material
20 suppliers within fifteen (15) days after the receipt of payment
21 from the owner under the construction contract, the contractor
22 shall pay to his subcontractors and material suppliers, in
23 addition to the payment due them, a penalty in the amount of
24 one-half of one percent (1/2 of 1%) per day of the delinquency,
25 calculated from the expiration of the fifteen-day period until
26 fully paid. The total penalty shall not exceed fifteen percent
27 (15%) of the outstanding balance due. The provisions of this

28 section shall not be applicable to contracts for the construction
29 of single-family dwellings.

30 If any lawsuit or arbitration is required to enforce the
31 provisions of this section, the prevailing party or parties to any
32 such lawsuit or arbitration shall be entitled to recover all costs
33 incurred as directed by the judge, including but not limited to,
34 attorney's fees and/or court or arbitration costs.

35 **SECTION 2.** This act shall take effect and be in force from
36 and after July 1, 2007.