

By: Senator(s) Doty

To: Judiciary, Division A

SENATE BILL NO. 2658

1 AN ACT TO CREATE SECTION 87-7-9, MISSISSIPPI CODE OF 1972, TO
2 SPECIFY THE MAXIMUM RETAINAGE ALLOWED FOR PRIVATE CONTRACTS TO
3 BUILD OR REPAIR IMPROVEMENTS TO REAL PROPERTY; TO EXEMPT
4 RESIDENTIAL PROPERTY; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** The following shall be codified as Section
7 87-7-9, Mississippi Code of 1972:

8 87-7-9. (1) As used in this section, the following words
9 shall have the meanings ascribed to them as follows:

10 (a) "Contract" means a written or oral agreement
11 between the owner and contractor relative to the design,
12 construction, alteration, repair, or maintenance of a building,
13 structure, highway, appurtenance, appliance or other improvements
14 to real property.

15 (b) "Contractor" means any person contracting or
16 undertaking with an owner to do any erection, building,
17 construction, reconstruction, repair, maintenance or related work
18 on private projects.



19 (c) "Owner" means any individual, corporation,
20 nonprofit corporation, partnership, limited partnership, limited
21 liability company or other business entity that is the owner of
22 record or lessee of real property subject to the applicable terms
23 of the contract.

24 (2) (a) In any contract for the construction, repair,
25 alteration or demolition of any building, structure or facility
26 situated within the boundaries of the State of Mississippi, that
27 provides for progress payments in installments based upon an
28 estimated percentage of completion with a percentage of the
29 contract proceeds to be retained by one (1) of the parties to that
30 contract, a third party to that contract or contractor, pending
31 completion of the contract, such retainage shall be no more than
32 five percent (5%), and the amount retained by the contractor from
33 each payment due any subcontractor shall not exceed five percent
34 (5%) .

35 (b) On any contract, of which the total amount is Two
36 Hundred Fifty Thousand Dollars (\$250,000.00) or greater, or on any
37 contract with a subcontractor, regardless of amount, five percent
38 (5%) shall be retained.

39 (c) The provisions of this chapter do not apply to any
40 contract for the construction, repair, alteration or demolition of
41 any residential property, as that term is defined in Section
42 85-7-401.



43 (d) Compliance with this subsection (2) is mandatory
44 and may not be otherwise waived or altered by agreement, written
45 or oral.

46 (e) The provisions of this section apply to all
47 contracts made or entered into on or after July 1, 2018, or
48 renewed or renegotiated on or after July 1, 2018.

49 **SECTION 2.** This act shall take effect and be in force from
50 and after July 1, 2018.

