

Regular Session, 2011

HOUSE BILL NO. 378

BY REPRESENTATIVE ELLINGTON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC CONTRACTS: Provides relative to payments made under public contracts

1 AN ACT

2 To amend and reenact R.S. 38:2191, relative to public contracts; to provide for progressive
3 stage payments made under public contracts; and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. R.S. 38:2191 is hereby amended and reenacted to read as follows:

6 §2191. Payments under contract

7 A. All public entities shall promptly pay all obligations arising under public
8 contracts when the obligations become due and payable under the contract. All
9 progressive stage payments and final payments shall be paid when they respectively
10 become due and payable under the contract.

11 B. Any public entity failing to make any final payments after formal final
12 acceptance and within forty-five days following receipt of a clear lien certificate by
13 the public entity shall be liable for reasonable ~~attorneys~~ attorney fees.

14 C. The provisions of this Section shall not be subject to waiver by contract.

15 D. Any public entity failing to make any progressive stage payments
16 arbitrarily or without reasonable cause, or any final payment when due as set out
17 above, shall be subject to mandamus to compel the payment of the sums due under
18 the contract up to the amount of the appropriation made for the award and execution
19 of the contract.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Ellington

HB No. 378

Abstract: Provides for payment of progressive stage payments under public contracts.

Present law provides that all public entities must promptly pay all progressive stage payments and final payments when they become due and payable under the contract, without waiver by contract. Further provides that any public entity failing to make any final payments after formal final acceptance and within 45 days following receipt of a clear lien certificate by the public entity shall be liable for reasonable attorney fees.

Proposed law retains present law and adds that any public entity failing to make any progressive stage payments arbitrarily or without reasonable cause, or any final payment when due as set out in present law, shall be subject to mandamus to compel the payment of the sums due under the contract up to the amount of the appropriation made for the award and execution of the contract.

(Amends R.S. 38:2191)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill.

1. Deleted language stating any public entity failing to make progressive payments within 30 days of the due date shall be liable for reasonable attorney fees.
2. Added that any public entity failing to make any progressive stage payments arbitrarily or without reasonable cause, or any final payment when due as set out in present law, shall be subject to mandamus to compel the payment of the sums due under the contract up to the amount of the appropriation made for the award and execution of the contract.
3. Made technical changes.