

Regular Session, 2014

SENATE BILL NO. 316

BY SENATOR DONAHUE

PUBLIC CONTRACTS. Provides relative to payments under public contracts.(8/1/14)

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AN ACT

To amend and reenact R.S. 38:2191(B) and (D), relative to public contracts; to provide with respect to progressive stage payments made under public contracts; to provide with respect to payment of change orders made under public contracts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:2191(B) and (D) are hereby amended and reenacted to read as follows:

§2191. Payments under contract

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**B. Any public entity failing to make any progressive stage payment within forty-five days following receipt of a certified request for payment by the public entity without reasonable cause shall be liable for reasonable attorney fees.** Any public entity failing to make any final payments after formal final acceptance and within forty-five days following receipt of a clear lien certificate by the public entity shall be liable for reasonable attorney fees.

\* \* \*

1                   D. Any public entity failing to make any progressive stage payments  
2                   arbitrarily or without reasonable cause, or any final payment when due as provided  
3                   in this Section, shall be subject to mandamus to compel the payment of the sums due  
4                   under the contract up to the amount of the appropriation made for the award and  
5                   execution of the contract, **including any authorized change orders.**

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Sharon F. Lyles.

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#### DIGEST

Donahue (SB 316)

Present law requires all public entities to promptly pay all obligation arising under public contracts. Requires public entities to pay progressive stage payments and final payments when they become due and payable under the contract.

Present law 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 is liable for reasonable attorney fees.

Proposed law retains present law and adds liability for reasonable attorney fees when a public entity fails to pay any progressive stage payment within 45 days following receipt of a certified request for payment by the public entity without reasonable cause.

Present law provides that any public entity who fails to pay any progressive stage payments arbitrarily or without reasonable cause, or any final payment when due under existing law, is 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.

Proposed law retains present law and adds that a public entity is subject to mandamus to compel payment of authorized plan changes.

Effective August 1, 2014.

(Amends R.S. 38:2191(B) and (D))