

SENATE BILL NO. 151

BY SENATOR CORTEZ

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

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AN ACT

To amend and reenact R.S. 48:251.5(B)(1) and (2), 256.5(B), 256.6(A)(1), and 256.7(C), relative to public contracts of the Department of Transportation and Development; to provide relative to payment of legal interest on contract balances; to provide relative to filing of statements of amounts due by claimants; to provide relative to cancellation of the inscription of claims and privileges; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 48:251.5(B)(1) and (2), 256.5(B), 256.6(A)(1), and 256.7(C) are hereby amended and reenacted to read as follows:

§251.5. Payments under contract

* * *

B.(1) If the department fails to make any final payments after recordation of formal final acceptance and within forty-five days following receipt of a clear lien certificate by the department, ~~the department shall be liable for legal interest on the balance due on the contract.~~

~~(2) If the final estimate by the department's engineer is not completed by the expiration of the period prescribed in this Subsection, the retainage or other payments known by the department to be due and payable shall be released, but the contractor and the contractor's surety shall remain liable for any overpayment by the department to the contractor, stipulated damages for delay in a completion or work necessary to repair latent defects, or in performance of warranty work under the contract.~~

(2) If the department fails to make any final payment within one hundred days after its receipt of the clear lien certificate, the department shall

1 be liable for legal interest on the balance due on the contract.

2 * * *

3 §256.5. Claimant defined; filing of sworn statements of amounts due; payment by
4 the department

5 * * *

6 B. Any claimant shall, after the maturity of his claim and within forty-five
7 days after the recordation of final acceptance of the work by the department or of
8 notice of default of the contractor or subcontractor, ~~file a copy of sworn statement~~
9 ~~of the amount due him with the department having the work done and~~ record the
10 original sworn statement of the amount due him in the office of the recorder of
11 mortgages for the parish in which the work is done **and file a certified copy of the**
12 **recorded sworn statement of the amount due, showing the recordation data,**
13 **with the undersecretary of the department.**

14 * * *

15 §256.6. Authorization to cancel the inscription of claims and privileges;
16 cancellation; lis pendens

17 A.(1) If a statement of claim or privilege is improperly filed or if the claim
18 or privilege preserved by the filing of a statement of claim or privilege is
19 extinguished, the public entity, contractor, or subcontractor, or other interested
20 person may require the person who has filed a statement of claim or privilege to give
21 a written authorization directing the recorder of mortgages to cancel the statement
22 of claim or privilege from his records, **or to file an original lien cancellation**
23 **certificate with the recorder of mortgages and to submit a certified copy of the**
24 **recorded lien cancellation certificate, showing the recordation data, with the**
25 **undersecretary of the department.**

26 * * *

27 §256.7. Filing of bond or other security; cancellation of statement of claim or
28 privilege

29 * * *

30 C. Any party who files a bond or other security to guarantee payment of an

1 obligation secured by a privilege in accordance with the provisions of Subsection A
 2 of this Section shall give notice to the department, the claimant, and the contractor
 3 by certified mail, **and shall file a certified copy of the cancellation of the**
 4 **statement of claim or privilege by the recorder of mortgages, showing the**
 5 **recordation data, with the undersecretary of the department by certified mail.**

6 Section 2. This Act shall become effective upon signature by the governor or, if not
 7 signed by the governor, upon expiration of the time for bills to become law without signature
 8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 9 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 10 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____