

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DATE: April 2, 1998

(Filing No. S- 704)

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND SPECIAL SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1108, L.D. 1551, Bill, "An Act to Amend the Amount of Retainage on Public Building Contracts"

Amend the amendment in section 2 in that part designated "~~§1746-A.~~" by inserting after the headnote the following:

'This section governs the retention of part of the contract payment for public improvement projects as defined in subsection 1. Nothing in this section prevents the withholding of payment to cover good faith claims as provided in Title 10, section 1118.'

Further amend the amendment in section 2 in that part designated "~~§1746-A.~~" in subsection 2 in the 3rd line (page 2, line 13 in amendment) by striking out the following: "due a general contractor"

Further amend the amendment in section 2 in that part designated "~~§1746-A.~~" by striking out all of subsection 3 and inserting in its place the following:

'3. Line item retainage. Payment and retention of payment on a public improvement project must be based on contract line items. Contract line items for each project must be identified by the parties prior to the start of the project. If payment is retained under this subsection, the amount retained may not exceed 5% of the payment for approved work on that line item. Nothing in this subsection obligates an owner to make payment on a contract line item in the case of nonperformance on that line item. When the owner determines that performance has been completed or corrected for that line item, and has accepted the work on the line item, the owner must authorize release of retained payments at the next regular requisition meeting under

288

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1108,
L.D. 1551

the contract and pay in accordance with subsection 7.'

2

4

6

8

10

12

14

16

18

20

22

24

26

28

30

32

34

36

38

40

42

44

46

48

50

Further amend the amendment in section 2 in that part designated "~~§1746-A.~~" in subsection 4 in the 6th line (page 2, line 34 in amendment) by striking out the following: "payments due" and inserting in its place the following: 'the value of the line item'

Further amend the amendment in section 2 in that part designated "~~§1746-A.~~" in subsection 5 in the 15th line (page 3, line 4 in amendment) by striking out the following: "line"

Further amend the amendment in section 2 in that part designated "~~§1746-A.~~" in subsection 7 by striking out all of the 3rd underlined sentence (page 3, lines 31 to 33 in amendment)

SUMMARY

This amendment makes the following changes in the committee amendment.

1. It clarifies that payments may be withheld against both a general contractor and a subcontractor under public improvement projects.

2. It removes an unnecessary reference to nonperformance of contract line items.

3. It clarifies that the owner makes the determination of completion and acceptance of work on contract line items.

4. It clarifies that retention of payments is a percentage of the payment due for approved work on line items under the contract.

5. It clarifies that retention at the end of line item work under the contract may be up to 5% of the value of the line item.

6. It clarifies that an owner is not obligated to make payments in case of nonperformance.

SPONSORED BY: J. B. Nutting
(Senator NUTTING)

COUNTY: Androscoggin

SENATE AMENDMENT