

Senate File 431 - Introduced

SENATE FILE 431
BY BOUSSELOT

A BILL FOR

- 1 An Act relating to retention of fees for public improvement
- 2 contracts.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 573.7, Code 2025, is amended by adding the
2 following new subsections:

3 NEW SUBSECTION. 3. After a claim has been filed, upon the
4 general contractor filing with the public corporation or person
5 withholding the funds a surety bond in double the amount of
6 the claim in controversy, conditioned to pay any final judgment
7 rendered for the claim so filed, the public corporation or
8 person withholding the funds shall pay to the contractor the
9 full amount of retention held for the project or double the
10 amount of the claim, whichever is less. Payment shall be made
11 to the contractor within twenty days of receipt by the public
12 corporation of the surety bond. Failure to make payment by that
13 date shall cause interest to accrue on the unpaid amount during
14 the period commencing on the twenty-first day after the public
15 corporation's receipt of the surety bond and ending on the date
16 of payment. The rate of interest shall be determined pursuant to
17 section 573.14, subsection 2. This subsection is not subject to
18 or limited by section 573.14, subsection 1, or section 573.16 or
19 573.28.

20 NEW SUBSECTION. 4. Upon written demand of the contractor
21 served, in the manner prescribed for original notices, on the
22 person filing a claim, requiring the claimant to commence action
23 in court to enforce the claim, an action shall be commenced
24 within thirty days. The claim is barred if an action is not
25 commenced within thirty days. Upon the claim being barred, the
26 public corporation or person withholding the funds shall pay to
27 the contractor the full amount of retention held for the project
28 or double the amount of the claim, whichever is less. Payment
29 shall be made to the contractor within twenty days of receipt
30 by the public corporation of a payment demand by the contractor
31 accompanied by copies of the written demand and proof of service
32 upon the person filing the claim. Failure to make payment within
33 twenty days shall cause interest to accrue on the unpaid amount,
34 commencing on the twenty-first day after the date of the public
35 corporation's receipt of the payment demand by the contractor

1 with the accompanying documents and ending on the date of the
2 payment. The rate of interest shall be determined pursuant to
3 section 573.14, subsection 2. This subsection is not subject to
4 or limited by section 573.14, subsection 1, or section 573.16 or
5 573.28.

6 Sec. 2. Section 573.12, subsection 1, Code 2025, is amended
7 by adding the following new paragraph:

8 NEW PARAGRAPH. c. At any time, a principal contractor may
9 post with the public corporation a retention bond, with surety,
10 in the amount of five percent of the original contract price
11 to serve as a substitute for the retention funds. Upon the
12 public corporation's receipt of the retention bond, the public
13 corporation shall pay to the contractor all retention funds
14 being held, if any, and shall not hold any further retention
15 funds on the project. Payment shall be made to the contractor
16 within twenty days of receipt by the public corporation of the
17 retention bond. Failure to make payment within twenty days shall
18 cause interest to accrue on the unpaid amount beginning on the
19 twenty-first day after the public corporation's receipt of the
20 retention bond and ending on the date of the payment. The
21 rate of interest shall be determined pursuant to section 573.14,
22 subsection 2. This paragraph is not subject to or limited by
23 section 573.14, subsection 1, or section 573.16 or 573.28.

24 Sec. 3. Section 573.14, Code 2025, is amended to read as
25 follows:

26 **573.14 Retention of unpaid funds.**

27 1. The Except as otherwise provided in this chapter, the fund
28 provided for in section 573.13 shall be retained by the public
29 corporation for a period of thirty days after the completion
30 and final acceptance of the improvement. If at the end of the
31 thirty-day period claims are on file, the public corporation
32 shall continue to retain from the unpaid funds a sum equal to
33 double the total amount of all claims on file. The remaining
34 balance of the unpaid fund, or if no claims are on file, the
35 entire unpaid fund, shall be released and paid to the contractor.

1 2. The public corporation shall order payment of any amount
2 due the contractor to be made in accordance with the terms of
3 the contract. Except as provided in section 573.12 for progress
4 payments, failure to make payment pursuant to this section,
5 of any amount due the contractor, within forty days, unless a
6 greater time period not to exceed fifty days is specified in the
7 contract documents, after the work under the contract has been
8 completed and if the work has been accepted and all required
9 materials, certifications, and other documentations required to
10 be submitted by the contractor and specified by the contract have
11 been furnished the awarding public corporation by the contractor,
12 shall cause interest to accrue on the amount unpaid to the
13 benefit of the unpaid party. Interest shall accrue during the
14 period commencing the thirty-first day following the completion
15 of work and satisfaction of the other requirements of this
16 subsection and ending on the date of payment. The rate of
17 interest shall be determined by the period of time during which
18 interest accrues, and shall be the same as the rate of interest
19 that is in effect under section 12C.6, as of the day interest
20 begins to accrue, for a deposit of public funds for a comparable
21 period of time. However, for institutions governed pursuant
22 to chapter 262, the rate of interest shall be determined by
23 the period of time during which interest accrues, and shall be
24 calculated as the prime rate plus one percent per year as of
25 the day interest begins to accrue. This subsection does not
26 abridge any of the rights set forth ~~in section 573.16~~ elsewhere
27 in this chapter. Except as provided in sections 573.7, 573.12,
28 and ~~573.16~~ 573.28, interest shall not accrue on funds retained by
29 the public corporation to satisfy the provisions of this section
30 regarding claims on file. This chapter does not apply if the
31 public corporation has entered into a contract with the federal
32 government or accepted a federal grant ~~which~~ that is governed by
33 federal law or rules that are contrary to the provisions of this
34 chapter. For purposes of this subsection, "prime rate" means
35 the prime rate charged by banks on short-term business loans,

1 as determined by the board of governors of the federal reserve
2 system and published in the federal reserve bulletin.

3 Sec. 4. Section 573.16, subsection 2, Code 2025, is amended
4 by striking the subsection.

5 Sec. 5. Section 573.21, Code 2025, is amended to read as
6 follows:

7 **573.21 Attorney fees.**

8 The court ~~may~~ shall tax, as costs, a reasonable attorney
9 fee in favor of any claimant under section 573.7 for labor or
10 materials who ~~has, in whole or in part, established~~ prevails on
11 a claim. The court shall tax, as costs, a reasonable attorney
12 fee in favor of any principal contractor who prevails, in whole
13 or in part, in any dispute with the public corporation related
14 to or arising out of the contract, retention funds, or the public
15 improvement.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill relates to retention fees and bonds for public
20 improvement contracts.

21 The bill provides that after a claim has been filed for costs
22 incurred in the construction of a public improvement and the
23 general contractor has filed a surety bond in double the amount
24 of the claim in controversy with a public corporation or person
25 withholding funds, the public corporation or person must pay to
26 the contractor the full amount of retention funds held for the
27 project or double the amount of the claim, whichever is less.
28 Interest will accrue on the unpaid amount beginning on the 21st
29 day after the public corporation's receipt of the surety bond.

30 The bill requires that after the contractor serves a written
31 demand on the person filing a claim, an action must be
32 commenced within 30 days, or the claim will be barred and the
33 public corporation or person withholding the funds must pay
34 the contractor the full amount of retention funds held for the
35 project or double the amount of the claim, whichever is less.

1 Beginning on the 21st day after the public corporation's receipt
2 of a payment demand by the contractor with the accompanying
3 documents, interest shall accrue on the unpaid amount.

4 The bill allows a principal contractor to post with the public
5 corporation a retention bond, with surety, in the amount of
6 5 percent of the original contract price as a substitute for
7 the retention funds that are retained by a public corporation
8 from each monthly payment for labor and material on a public
9 improvement contract. The public corporation must pay all
10 retention funds being held to the contractor within 20 days and
11 hold no further retention funds on the project. Beginning on the
12 21st day after the public corporation's receipt of the retention
13 bond, interest shall accrue on the unpaid amount of the retention
14 funds.

15 The bill strikes the requirement that the retained and unpaid
16 funds owed to the contractor be released if an action is not
17 commenced within 30 days of the contractor serving written demand
18 on the person filing a claim and that the public corporation or
19 person pay the contractor the withheld funds after an action is
20 commenced and the general contractor has filed a surety bond.

21 Under current law, a court may grant a reasonable attorney
22 fee to a claimant who has established a claim. The bill changes
23 this to require a court to grant a reasonable attorney fee to a
24 claimant who prevails and to a principal contractor who prevails
25 in a dispute with a public corporation related to the contract,
26 retention funds, or the public improvement.