

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0581.01 Jery Payne x2157

HOUSE BILL 20-1046

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HOUSE SPONSORSHIP

Valdez D.,

SENATE SPONSORSHIP

Gonzales,

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House Committees  
Business Affairs & Labor

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING PAYMENTS IN CONSTRUCTION CONTRACTS GOVERNING  
102 IMPROVEMENTS TO PRIVATE REAL PROPERTY.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

- In a construction contract of at least \$150,000, the bill requires:
- ! A property owner to make partial payments to the contractor of any amount due under the contract at the end of each calendar month or as soon as practicable after the end of the month;
  - ! A property owner to pay the contractor at least 95% of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.



1       FIXTURE WHO HAS ENTERED INTO A CONTRACT WITH A CONTRACTOR.

2           (4) "SUBCONTRACT" MEANS A CONTRACT TO PERFORM A PORTION  
3       OF THE WORK REQUIRED BY A CONTRACT.

4           (5) "SUBCONTRACTOR" MEANS A PERSON WHO ENTERS INTO A  
5       SUBCONTRACT WITH A CONTRACTOR.

6           **38-46-102. Applicability of article.** (1) EXCEPT AS PROVIDED IN  
7       SUBSECTION (2) OF THIS SECTION, THIS ARTICLE 46 APPLIES TO:

8           (a) A CONTRACT BETWEEN A PROPERTY OWNER AND A  
9       CONTRACTOR TO BUILD MULTIPLE SINGLE-FAMILY DWELLINGS OR TO  
10      BUILD MULTIPLE MULTI-FAMILY DWELLINGS OR TO ERECT, ALTER, OR  
11      REPAIR COMMERCIAL PROPERTY THAT HAS A PRICE OF AT LEAST ONE  
12      HUNDRED FIFTY THOUSAND DOLLARS; AND

13          (b) A SUBCONTRACT TO A CONTRACT DESCRIBED IN SUBSECTION  
14      (1)(a) OF THIS SECTION, NOTWITHSTANDING THAT THE SUBCONTRACT  
15      PRICE IS LESS THAN ONE HUNDRED FIFTY THOUSAND DOLLARS.

16          (2) THIS ARTICLE 46 DOES NOT APPLY TO:

17          (a) A SINGLE CONTRACT THAT GOVERNS THE BUILDING OF EITHER  
18      ONE:

19           (I) SINGLE-FAMILY DWELLING; OR

20           (II) MULTI-FAMILY DWELLING WITH NO MORE THAN FOUR FAMILY  
21      DWELLING UNITS; OR

22          (b) A CONTRACT WITH A PUBLIC ENTITY, AS DEFINED IN SECTION  
23      24-91-102.

24           **38-46-103. Construction contracts - partial payments.**

25      (1) (a) IF A CONTRACTOR IS SATISFACTORILY PERFORMING UNDER A  
26      CONTRACT, THE PROPERTY OWNER SHALL MAKE PARTIAL PAYMENTS OF AT  
27      LEAST NINETY-FIVE PERCENT OF THE PRICE OF COMPLETED WORK TO THE

1 CONTRACTOR AT THE END OF EACH CALENDAR MONTH OR AS SOON AS  
2 PRACTICABLE AFTER THE CALENDAR MONTH.

3 (b) THE PROPERTY OWNER SHALL PAY THE CONTRACTOR ANY  
4 WITHHELD PERCENTAGE WITHIN SIXTY DAYS AFTER THE CONTRACT IS  
5 COMPLETED SATISFACTORILY AND THE WORK IS FINALLY ACCEPTED.

6 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION,  
7 WHEN A CONTRACTOR RECEIVES PAYMENT FOR THE WORK OF A  
8 SUBCONTRACTOR, THE CONTRACTOR SHALL PAY THE SUBCONTRACTOR AT  
9 LEAST NINETY-FIVE PERCENT OF THE PRICE OF THE SUBCONTRACTOR'S  
10 COMPLETED WORK WITHIN THIRTY CALENDAR DAYS AFTER RECEIVING THE  
11 PAYMENT.

12 (b) WHEN A SUBCONTRACTOR RECEIVES PAYMENT UNDER A  
13 SUBCONTRACT, THE SUBCONTRACTOR SHALL PAY ANY SUPPLIER,  
14 SUB-SUBCONTRACTOR, OR LABORER WHO PROVIDED GOODS, MATERIALS,  
15 LABOR, OR EQUIPMENT TO THE SUBCONTRACTOR AT LEAST NINETY-FIVE  
16 PERCENT OF THE AMOUNT OWED THE SUPPLIER, SUB-SUBCONTRACTOR, OR  
17 LABORER WITH THIRTY CALENDAR DAYS AFTER RECEIVING THE PAYMENT.

18 (c) THIS SUBSECTION (2) DOES NOT AUTHORIZE A CONTRACTOR TO  
19 OR SUBCONTRACTOR TO WITHHOLD MORE THAN FIVE PERCENT OF THE  
20 AMOUNT OWED A SUPPLIER, SUBCONTRACTOR, SUB-SUBCONTRACTOR, OR  
21 LABORER WHO PROVIDED GOODS, MATERIALS, LABOR, OR EQUIPMENT.

22 (3) WHEN A SUBCONTRACTOR SUBMITS A REQUEST FOR PAYMENT  
23 TO A CONTRACTOR, THE SUBCONTRACTOR SHALL SUBMIT TO THE  
24 CONTRACTOR A LIST OF THE SUBCONTRACTOR'S SUPPLIERS,  
25 SUB-SUBCONTRACTORS, AND LABORERS WHO PROVIDED GOODS,  
26 MATERIALS, LABOR, OR EQUIPMENT TO THE SUBCONTRACTOR FOR THE  
27 WORK. A CONTRACTOR MAY WITHHOLD A PAYMENT REQUIRED BY THIS

1 ARTICLE 46 UNTIL THE SUBCONTRACTOR COMPLIES WITH THIS SUBSECTION  
2 (3).

3 **38-46-104. Violations - liability.** (1) IF A PROPERTY OWNER,  
4 CONTRACTOR, OR SUBCONTRACTOR FAILS TO MAKE A PAYMENT IN THE  
5 AMOUNT AND WITHIN THE TIME REQUIRED BY THIS ARTICLE 46, THE  
6 PROPERTY OWNER, CONTRACTOR, OR SUBCONTRACTOR SHALL PAY  
7 INTEREST ON THE AMOUNT DUE. THE INTEREST IS CALCULATED:

8 (a) FROM THE DATE THE PAYMENT WAS DUE UNTIL THE DATE THE  
9 PAYMENT IS MADE; AND

10 (b) BY COMPOUNDING THE INTEREST MONTHLY AT A RATE OF ONE  
11 AND ONE-HALF PERCENT PER MONTH.

12 (2) A COURT SHALL AWARD REASONABLE ATTORNEY FEES AND  
13 COSTS TO THE PREVAILING PARTY IN AN ACTION TO ENFORCE THIS ARTICLE  
14 46.

15 **SECTION 2. Act subject to petition - effective date -**  
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
17 the expiration of the ninety-day period after final adjournment of the  
18 general assembly (August 5, 2020, if adjournment sine die is on May 6,  
19 2020); except that, if a referendum petition is filed pursuant to section 1  
20 (3) of article V of the state constitution against this act or an item, section,  
21 or part of this act within such period, then the act, item, section, or part  
22 will not take effect unless approved by the people at the general election  
23 to be held in November 2020 and, in such case, will take effect on the  
24 date of the official declaration of the vote thereon by the governor.

25 (2) This act applies to contracts made on or after the applicable  
26 effective date of this act.