



*American Subcontractors Association  
of Tennessee*  
**NEWS RELEASE**

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**FOR RELEASE**

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**Law Supported by ASA of Tennessee Will Free Up Millions of Dollars for  
State's Construction Industry**

NASHVILLE, Tenn. — The Tennessee construction industry will benefit from millions of dollars in project earnings made available to contractors and subcontractors during the course of projects because of a law (Public Chapter 201) enacted in May 2007 with the support of the American Subcontractors Association of Tennessee (ASATN). Gov. Phil Bredesen (D) signed H.B. 1003 on May 22. The law, which will take effect July 1, 2007, will limit retainage on all public and private construction projects in the state to 5 percent, while requiring that retained funds be kept in interest-bearing escrow accounts. It also will require release of retainage by construction owners, contractors and subcontractors within specific time frames.

The practice of “retainage” creates cash flow problems for many contractors and subcontractors by allowing construction owners and higher-tier contractors to hold an amount (usually a predetermined percentage) of the progress payments owed to contractors and subcontractors until late into, or after, projects. Retainage is held without regard to a contractor's or subcontractor's performance on a project. Some contracts stipulate as much as 15 or 10 percent retainage, and often retained funds are not released for months after a contractor or subcontractor has completed its work. A contractor or subcontractor with a \$1 million contract and 10 percent retainage might not be paid the \$100,000 in retainage owed to it for months.

The new law's required reduction of retainage to 5 percent means that the same contractor or subcontractor would be paid \$50,000 more during the project lifecycle instead of at the end of or after the project — \$50,000 that it could use to pay managers/laborers, purchase materials, purchase/rent equipment, or re-invest in the company. Multiplied over Tennessee's whole construction industry, the savings and benefit created by the law will be in the millions of dollars.

The law also addresses late payment of retainage, which causes cash flow problems. It will require a construction owner to release all retainage to a prime contractor within 90 days after completion of work or substantial completion of a project, whichever occurs first. The law will require prime contractors to pay retainage to subcontractors, and subcontractors to pay sub-subcontractors and suppliers, within 10 days of receipt of retainage held for the work/supplies they provide.

**(MORE)**

ASATN is in the business of promoting programs, education, and services for an environment in which subcontractors, specialty trade contractors, suppliers, and their associates can operate profitably. For more information, call 877.471.0568.

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