**South Carolina General Assembly**

121st Session, 2015-2016

**H. 4969**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Jefferson, Anderson, Henegan, Hosey, Gilliard, Howard, Williams, Southard and Clyburn

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Introduced in the House on February 23, 2016

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Interest penalty on late payments

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/23/2016 House Introduced and read first time ([House Journal‑page 63](file:///h:\HJ%20Archive\2016\02-23-16.docx))

2/23/2016 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 63](file:///h:\HJ%20Archive\2016\02-23-16.docx))

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**VERSIONS OF THIS BILL**

[2/23/2016](file:///p:\pprever\2015-16\4969_20160223.docx)

**A** **BILL**

TO AMEND SECTION 29‑6‑50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE INTEREST PENALTY ON LATE PAYMENTS TO A CONTRACTOR OR SUBCONTRACTOR WHO IS CONSTRUCTING OR IMPROVING REAL PROPERTY WHEN THE CONTRACTOR OR SUBCONTRACTOR HAS COMPLETED THE AGREED UPON WORK, SO AS TO INCREASE THE INTEREST RATE PENALTY WHICH IS OWED FOR LATE PAYMENT; BY ADDING SECTION 29‑6‑55 SO AS TO ALSO SUBJECT AN OWNER, CONTRACTOR, OR SUBCONTRACTOR WHO VIOLATES THE PROVISIONS OF SECTION 29‑6‑50 TO AN ADDITIONAL MONETARY PENALTY WHICH SHALL BE PAID TO A CONTRACTOR OR SUBCONTRACTOR NOT TIMELY PAID WHERE THE CONTRACTOR OR SUBCONTRACTOR IS A MINORITY‑OWNED OR A FEMALE‑OWNED BUSINESS; AND TO REPEAL SECTION 29‑6‑60 RELATING TO CERTAIN EXCEPTIONS TO THE PROVISIONS OF CHAPTER 6, TITLE 29, INCLUDING EXCEPTIONS FOR RESIDENTIAL HOME BUILDERS AND EXCEPTIONS FOR IMPROVEMENTS TO REAL PROPERTY INTENDED FOR RESIDENTIAL PURPOSES WHICH CONSISTS OF SIXTEEN OR FEWER RESIDENTIAL UNITS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 29‑6‑50 of the 1976 Code is amended to read:

“Section 29‑6‑50. If a periodic or final payment to a contractor is delayed by more than twenty‑one days or if a periodic or final payment to a subcontractor is delayed by more than seven days after receipt of periodic or final payment by the contractor or subcontractor, the owner, contractor, or subcontractor shall pay his contractor or subcontractor interest, beginning on the due date, at the rate of one and one‑half percent a month or a pro rata fraction thereof on the unpaid balance as may be due. However, no interest is due unless the person being charged interest has been notified of the provisions of this section at the time request for payment is made. Nothing in this chapter shall prohibit owners, contractors, and subcontractors, on private construction projects only, from agreeing by contract to rates of interest and payment periods different from those stipulated in this section, and in this event, these contractual provisions shall control, provided the requirements of Section 29‑6‑30 and this section are specifically waived, by section number, in conspicuous bold‑faced or underlined type. In case of a wilful breach of the contract provisions as to time of payment, the interest rate specified in this section shall apply.”

SECTION 2. A. The General Assembly finds that as a matter of state public policy, the Code of Laws of this State has provisions affording certain benefits and protections for contractors or subcontractors which are minority-owned or female‑owned businesses. These provisions include such things as bidding preferences in public contracting. It has come to the attention of the General Assembly that contractors or subcontractors which are minority‑owned or female‑owned businesses, since they may not be as well capitalized as other contractors and subcontractors, are more severely affected when payments due them for work performed are not timely paid. The General Assembly therefore has determined to afford these contractors and subcontractors additional protections as contained in Section 29‑6‑55.

B. Article 2, Chapter 6, Title 29 of the 1976 Code is amended by adding:

“Section 29‑6‑55. Any property owner, contractor, or subcontractor which commits in any year three or more violations of the provisions of Section 29‑6‑50 for failure to timely pay another contractor or subcontractor which is a minority‑owned or female‑owned business, thereby incurring an interest penalty under Section 29-6-50 for such nonpayment, whether or not the interest penalty is paid, also is subject to an additional monetary penalty due the unpaid contractor or subcontractor in an amount not exceeding one thousand dollars per violation which may be imposed upon complaint by the licensing entity having jurisdiction of the contractor or subcontractor. If the violating party is the owner of the property, the additional monetary penalty also is authorized to be imposed by the licensing entity having jurisdiction over the contractor or subcontractor. Each period of six months, during which a monetary penalty imposed pursuant to this section remains unpaid, constitutes a separate violation.”

SECTION 3. Section 29‑6‑60 of the 1976 Code is repealed.

SECTION 4. This act takes effect upon approval by the Governor.

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