

# KANSAS PROMPT PAY ACT

SUBJECT	PUBLIC—KANSAS FAIRNESS IN PUBLIC CONSTRUCTION CONTRACT ACT (KFPCA)	PUBLIC—KANSAS PROMPT PAY ACT (KPPA)	PRIVATE
<b>Relevant Laws:</b>	K.S.A. § 16-1901 et seq.	K.S.A. § 75-6401 et seq.	K.S.A. § 16-1801 et seq.
<b>Which contracts it applies to:</b>	Public construction contract entered into by and between an owner and a contractor, a contractor and a subcontractor or a subcontractor and another subcontractor (excluding construction projects for the Kansas department of transportation which must comply with special provisions.)	Agreement wherein government agency is purchasing or contracting for goods or services from a vendor.	Private construction contracts, with the exception of single family residences or multifamily residences of four units or less.
<b>Who is covered</b> <u>General Contractors?</u>	Yes	Yes, as well as all other vendors	Yes
<u>Subcontractors?</u>	Yes, as well as lower-tier subcontractors	No	Yes, as well as lower-tier subcontractors
<u>Architects and Engineers?</u>	No	Yes, as well as all other vendors	No
<b>Progress payment</b> <u>When due to GC:</u>	30 days after the owner receives a timely, properly completed, undisputed request for payment according to the terms of the contract (but, if extenuating circumstances are present, then 45 days after request received)	Unless otherwise agreed to in writing, on or before the 30 <sup>th</sup> calendar day after the date of receipt by the government agency of the goods and services or the bill therefor, whichever is later	30 days after the owner receives a timely, properly completed, undisputed request for payment according to the terms of the contract.
<u>When due to Subs and lower tiers:</u>	Within seven business days of receipt of payment from the owner if the subcontractor has provided a timely, properly completed and undisputed request for payment to the contractor.	-----	Within seven business days of receipt of payment from the owner if the subcontractor has provided a timely, properly completed and undisputed request for payment to the contractor.
<u>When due to Architects and Engineers:</u>	-----	Same as general contractor	-----

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SUBJECT	PUBLIC—KFPCA	PUBLIC—KPPA	PRIVATE
<b>Final payment</b>	Same as progress payment	Same as progress payment	Same as progress payment
<b>When interest starts</b>	For general contractors, the eighth business day after owner, architect or engineer receives a timely, properly completed, undisputed request for payment. For subcontractors, the eighth business day after receipt of payment by the contractor.	The day after the required payment date. To obtain interest, a request must be made by the contractor within four months after payment was due. No interest will be owed, however, if full payment is made on or before the fifteenth calendar day after the required payment date.	For general contractors, the thirty-first day after receipt of request for payment. For subcontractors, the eighth business day after receipt of payment by the contractor.
<b>When interest stops</b>	-----	Seven days after the full payment is sent.	-----
<b>Interest rate</b> <u>General Contractor:</u>	18% per annum	1.5% per month, compounded monthly	18% per annum
<u>Subs:</u>	18% per annum	-----	18% per annum
<u>Architects and Engineers:</u>	-----	1.5% per month, compounded monthly	-----
<b>Attorney's fees</b>	Between contractor and subcontractor or subcontractor and subcontractors, attorney's fees shall be awarded to the prevailing party.	-----	Shall be awarded to the prevailing party.

## RETAINAGE ACT

SUBJECT	PUBLIC	PRIVATE
<b>Relevant Laws:</b>	<b>K.S.A. §§ 16-1901 et seq.</b>	<b>K.S.A. §§ 16-1801 et seq.</b>
	<p>* Retention shall not exceed 5% unless a higher rate is necessary for performance - But shall not exceed 10%.</p> <p>*An owner must release retainage on any undisputed payment due on a construction project within 30 days after substantial completion</p> <p>*If an owner, contractor or subcontractor fails to pay retainage, they shall pay 18% interest beginning on the first business day after the payment was due.</p> <p>*Limits retention for incomplete work to 150% of the value of incomplete work.</p> <p>*Prior to commencement of work, a contractor or subcontractor may request an alternate security in lieu of retainage.</p>	<p>*An owner, contractor or subcontractor may withhold no more than 5% unless a higher rate is necessary for performance - But shall not exceed 10%.</p> <p>*An owner must release retainage on any undisputed payment due on a construction project within 30 days after substantial completion</p> <p>*If an owner, contractor or subcontractor fails to pay retainage, if any, pursuant to the terms of a contract for private construction or as required by this act, the owner, contractor or subcontractor shall pay interest to the contractor or subcontractor to whom payment was due, beginning on the first business day after the payment was due, at a rate of 18% per annum.</p> <p>*Limits retention for incomplete work to 150% of the value of incomplete work.</p>