

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H

1

HOUSE BILL 365

Short Title: State Board Construction Contract Claim. (Public)

Sponsors: Representatives Arp, Brody, Bell, and Reives (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: State and Local Government, if favorable, Judiciary, if favorable, Rules, Calendar,  
and Operations of the House

March 18, 2019

A BILL TO BE ENTITLED

AN ACT PROVIDING THE TIME PERIOD IN WHICH THE DIRECTOR OF THE OFFICE  
OF STATE CONSTRUCTION SHALL ISSUE A FINAL ORDER ALLOWING OR  
DENYING A CONTRACTOR'S VERIFIED WRITTEN CLAIM.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143-135.3 reads as rewritten:

**"§ 143-135.3. Adjustment and resolution of State board construction contract claim.**

...

(c) A contractor who has completed a contract with a board for construction or repair work and who has not received the amount he claims is due under the contract may submit a verified written claim to the Director of the Office of State Construction of the Department of Administration for the amount the contractor claims is due. The claim shall be submitted within 60 days after the contractor receives a final statement of the board's disposition of his claim and shall state the factual basis for the claim.

~~The Director shall investigate a submitted claim within 90 days of receiving the claim, or within any longer time period upon which the Director and the contractor agree. The contractor may appear before the Director, either in person or through counsel, to present facts and arguments in support of his claim. The Director may allow, deny, or compromise the claim, in whole or in part. The Director shall give the contractor a written statement of the Director's decision on the contractor's claim.~~ final written decision allowing or denying those portions of the contractor's claim that have not been previously compromised.

~~A contractor who is dissatisfied with the Director's decision on a claim submitted under this subsection may commence a contested case on the claim under Chapter 150B of the General Statutes. The contested case shall be commenced within 60 days of receiving the Director's written statement of the decision.~~

~~(e1) A contractor who is dissatisfied with the Director's decision on a claim submitted under subsection (c) of this section may commence a contested case on the claim under Chapter 150B of the General Statutes. The contested case shall be commenced within 60 days of receiving the Director's written statement of the decision.~~

(c2) If the verified claim under subsection (c) of this section was originally for an amount less than one hundred thousand dollars (\$100,000), the Director shall investigate and issue a final written decision allowing or denying the claim, in whole or in part, within 120 days of receipt of the contractor's verified claim. If the verified claim under subsection (c) of this section was originally for an amount of one hundred thousand dollars (\$100,000) but less than five million



\* H 3 6 5 - V - 1 \*

1 dollars (\$5,000,000), the Director shall investigate and issue a final written decision allowing or  
2 denying the claim, in whole or in part, within 180 days of receipt of the contractor's verified  
3 claim. If the verified claim under subsection (c) of this section was originally for an amount of  
4 five million dollars (\$5,000,000) or more, the Director shall investigate and issue a final written  
5 decision allowing or denying the claim, in whole or in part, within 270 days of receipt of the  
6 contractor's verified claim. Prior to the expiration of the time periods provided for in this  
7 subsection, the Director and contractor may, in writing, extend the time in which the Director  
8 shall issue a final written decision. The Director's failure to issue a final written decision as  
9 provided in this subsection shall be deemed a denial of the portions of the claim not previously  
10 compromised, and the contractor may seek relief on those portions of the claim as provided in  
11 subsections (c3) and (d) of this section.

12 (c3) A contractor who is dissatisfied with the Director's final written decision on a claim,  
13 or any portion of a claim, submitted under subsection (c) of this section may commence a  
14 contested case on the claim under Chapter 150B of the General Statutes. The contested case shall  
15 be commenced within 60 days of receiving the Director's final written decision.

16 (d) As to any portion of a claim that is denied by the ~~Director,~~ Director under subsection  
17 (b) or (c) of this section, the contractor may, in lieu of the procedures set forth in ~~the preceding~~  
18 subsection (c3) of this section, within six months of receipt of the Director's final written  
19 decision, institute a civil action for the sum he claims to be entitled to under the contract by filing  
20 a verified complaint and the issuance of a summons in the Superior Court of Wake County or in  
21 the superior court of any county where the work under the contract was performed. The procedure  
22 shall be the same as in all civil actions except that all issues shall be tried by the judge, without  
23 a jury.

24 ...."

25 **SECTION 2.** G.S. 143-135.6 reads as rewritten:

26 "**§ 143-135.6. Adjustment and resolution of community college board construction contract**  
27 **claim.**

28 ...

29 (b) A contractor who has completed a contract with a board of a community college for  
30 construction or repair work and who has not received the amount he claims is due under the  
31 contract may follow the same claims procedure in G.S. 143-135.3(c) through (d) that is available  
32 to a contractor who has contracted with a State board.

33 ~~(e) A contractor who is dissatisfied with the Director's decision on any portion of a claim~~  
34 ~~submitted pursuant to subsection (b) of this section may, within six months of receipt of the~~  
35 ~~Director's final decision, institute a civil action for the sum he claims to be entitled to under the~~  
36 ~~contract in the Superior Court of Wake County or in the superior court of any county where the~~  
37 ~~work under the contract was performed. The procedure shall be the same as in all civil actions~~  
38 ~~except that all issues shall be tried by the judge, without a jury. A contractor may not commence~~  
39 ~~an action under Chapter 150B of the General Statutes.~~

40 ...."

41 **SECTION 3.** This act becomes effective January 1, 2020, and applies to verified  
42 claims submitted on or after that date.