

Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0776.01 Lindy Schaible x4215

HOUSE BILL 26-1245

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HOUSE SPONSORSHIP

Keltie,

SENATE SPONSORSHIP

(None),

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House Committees  
Business Affairs & Labor

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THEFT BY CONTRACTORS.

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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>.)*

The bill specifies that a person commits theft when the person knowingly uses an advance payment for a construction project for an unrelated purpose that results in the delay, end, abandonment, or material nonperformance of the construction project.

The bill requires that before a contractor can take an advance payment from a customer, a contractor shall provide the customer with a written disclosure identifying the intended use of the advance payment, the anticipated timing of expenses identified in the disclosure, and the

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

project's anticipated start date.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-4-401, **amend** (1)  
3 introductory portion, (1)(e), and (1)(f); and **add** (1)(g) as follows:

4 **18-4-401. Theft.**

5 (1) A person commits theft when ~~he or she~~ THE PERSON knowingly  
6 obtains, retains, or exercises control over anything of value of another  
7 without authorization or by threat or deception; receives, loans money by  
8 pawn or pledge on, or disposes of anything of value or belonging to  
9 another that ~~he or she~~ THE PERSON knows or believes to have been stolen,  
10 and:

11 (e) Knowingly retains the thing of value more than seventy-two  
12 hours after the agreed-upon time of return in any lease or hire agreement;  
13 **or**

14 (f) Intentionally misrepresents or withholds a material fact for  
15 determining eligibility for a public benefit and does so for the purpose of  
16 obtaining or retaining public benefits for which the person is not eligible;  
17 **OR**

18 (g) KNOWINGLY USES, TRANSFERS, OR DIVERTS MONEY PROVIDED  
19 AS AN ADVANCE PAYMENT FOR A SPECIFIC CONSTRUCTION PROJECT, AS  
20 DEFINED IN SECTION 38-46-101 (4.5), AND THE USE, TRANSFER, OR  
21 DIVERSION:

22 (I) IS FOR A PURPOSE UNRELATED TO THE SPECIFIC CONSTRUCTION  
23 PROJECT FOR WHICH THE MONEY WAS PROVIDED; AND

24 (II) RESULTS IN DELAY, CESSATION, ABANDONMENT, OR MATERIAL  
25 NONPERFORMANCE OF THE SPECIFIC CONSTRUCTION PROJECT.



1 DISCLOSURE AND THAT RESULTS IN DELAY, CESSATION, OR ABANDONMENT  
2 OF THE CONSTRUCTION PROJECT MAY CONSTITUTE THEFT PURSUANT TO  
3 SECTION 18-4-401 (1)(g).

4 (2) EVIDENCE THAT A CONTRACTOR KNOWINGLY USED,  
5 TRANSFERRED, OR DIVERTED ADVANCE PAYMENT MONEY FOR PURPOSES  
6 UNRELATED TO THE WRITTEN DISCLOSURE MAY BE CONSIDERED EVIDENCE  
7 OF THE INTENT REQUIRED FOR THEFT PURSUANT TO SECTION 18-4-401.

8 (3) FAILURE OF A CONTRACTOR TO PROVIDE OR TO ADHERE TO THE  
9 ADVANCE PAYMENT USAGE DISCLOSURE REQUIRED PURSUANT TO THIS  
10 SECTION MAY BE CONSIDERED EVIDENCE OF USE, TRANSFER, OR DIVERSION  
11 OF MONEY IN ANY CIVIL OR CRIMINAL PROCEEDING.

12 **SECTION 4.** In Colorado Revised Statutes, 38-46-102, **amend**  
13 (1) introductory portion and (2) introductory portion as follows:

14 **38-46-102. Applicability of part.**

15 (1) Except as provided in subsection (2) of this section, this ~~article~~  
16 ~~46~~ PART 1 applies to:

17 (2) This ~~article 46~~ PART 1 does not apply to:

18 **SECTION 5.** In Colorado Revised Statutes, 38-46-103, **amend**  
19 (2) introductory portion as follows:

20 **38-46-103. Private construction contracts - retainage -**  
21 **conditions precedent.**

22 (2) This ~~article 46~~ PART 1 addresses only the amount of retainage  
23 that may be withheld by a property owner, contractor, or subcontractor  
24 and does not change, override, or invalidate any other provision in a  
25 contract, subcontract, or supply agreement. Such a provision includes, but  
26 is not limited to:

27 **SECTION 6.** In Colorado Revised Statutes, **amend** 38-46-104 as

1 follows:

2 **38-46-104. Lien waivers.**

3 To receive payment under this ~~article 46~~ PART 1, the recipient of  
4 the payment must provide an executed lien waiver for amounts actually  
5 paid if required by the contract, subcontract, or supply agreement.

6 **SECTION 7. Act subject to petition - effective date -**

7 **applicability.** (1) This act takes effect August 15, 2026; except that, if  
8 a referendum petition is filed pursuant to section 1 (3) of article V of the  
9 state constitution against this act or an item, section, or part of this act  
10 within the ninety-day period after final adjournment of the general  
11 assembly, then the act, item, section, or part will not take effect unless  
12 approved by the people at the general election to be held in November  
13 2026 and, in such case, will take effect on the date of the official  
14 declaration of the vote thereon by the governor.

15 (2) This act applies to offenses committed on or after the  
16 applicable effective date of this act.