

**Article - State Finance and Procurement**

17-110.

(A) (1) IF A CONTRACTOR HAS FURNISHED 100% PAYMENT SECURITY AND 100% PERFORMANCE SECURITY IN ACCORDANCE WITH THIS SUBTITLE UNDER A CONTRACT FOR CONSTRUCTION AWARDED BY A PUBLIC BODY, THE PERCENTAGE SPECIFIED IN THE CONTRACT FOR RETAINAGE MAY NOT EXCEED ~~5%~~ 10% OF THE TOTAL AMOUNT FOR THE FIRST 50% OF THE CONTRACT.

(2) UNLESS A PUBLIC BODY DEMONSTRATES THE NEED TO RETAIN MORE THAN 5% TO PROTECT THE PUBLIC INTEREST, AFTER 50% OF THE CONTRACT IS COMPLETED, A PUBLIC BODY MAY RETAIN ONLY 5% OF THE TOTAL AMOUNT.

(3) IN ADDITION TO RETAINAGE, A PUBLIC BODY MAY WITHHOLD FROM PAYMENTS OTHERWISE DUE A CONTRACTOR ANY AMOUNT THAT THE PUBLIC BODY REASONABLY BELIEVES NECESSARY TO PROTECT THE PUBLIC BODY'S INTEREST.

~~(3) RETAINAGE WITHHELD BY A PUBLIC BODY MAY BE DEPOSITED IN AN INTEREST BEARING ESCROW ACCOUNT IN ACCORDANCE WITH § 17-111 OF THIS SUBTITLE.~~

(4) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, WITHIN 120 DAYS AFTER SATISFACTORY COMPLETION OF A CONTRACT FOR CONSTRUCTION, A PUBLIC BODY SHALL:

~~(I) RELEASE ANY RETAINAGE DUE TO THE CONTRACTOR; AND~~

~~(II) PAY ANY INTEREST THAT:~~

~~1. HAS ACCRUED ON THE RETAINAGE; AND~~

~~2. IS DUE AND PAYABLE TO THE CONTRACTOR.~~

(5) IF THERE IS A DISPUTE OR CONTRACT CLAIM BETWEEN THE CONTRACTOR AND THE PUBLIC BODY CONCERNING THE SATISFACTORY COMPLETION OF A CONTRACT FOR CONSTRUCTION, THE PUBLIC BODY SHALL RELEASE THE RETAINAGE AND ANY INTEREST DUE TO THE CONTRACTOR WITHIN 120 DAYS ~~OF~~ AFTER THE RESOLUTION OF THE DISPUTE OR CONTRACT CLAIM.

(B) (1) A CONTRACTOR MAY NOT RETAIN A PERCENTAGE OF PAYMENTS DUE A SUBCONTRACTOR THAT EXCEEDS THE PERCENTAGE OF PAYMENTS RETAINED BY THE PUBLIC BODY.

(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT A CONTRACTOR FROM WITHHOLDING ANY AMOUNT IN ADDITION TO RETAINAGE IF THE CONTRACTOR DETERMINES THAT A SUBCONTRACTOR'S PERFORMANCE UNDER THE SUBCONTRACT PROVIDES REASONABLE GROUNDS FOR WITHHOLDING THE ADDITIONAL AMOUNT.

(C) (1) A SUBCONTRACTOR MAY NOT RETAIN A PERCENTAGE OF PAYMENTS DUE A LOWER TIER SUBCONTRACTOR THAT EXCEEDS THE PERCENTAGE OF PAYMENTS RETAINED FROM THE SUBCONTRACTOR.