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§9–304.

(a) In this section, "retention proceeds" means money earned but retained under the terms of a contract or subcontract:

(1) By an owner to guarantee performance of the contract by a contractor;

(2) By a contractor to guarantee performance of a subcontract by a subcontractor; or

(3) By a subcontractor to guarantee performance of a subcontract by another subcontractor.

(b) This section does not apply to:

(1) A contract in an amount less than $100,000; or

(2) A contract or subcontract for a project funded wholly or in part by or through the Department of Housing and Community Development.

(c) Except as provided in this section:

(1) If a contractor has furnished 100% security to guarantee the performance of a contract and 100% security to guarantee payment for labor and materials, including leased equipment:

(i) The retention proceeds under the terms of a contract may not exceed 5% of the contract price; and

(ii) The retention proceeds of any payment due under the terms of a contract from an owner to a contractor may not exceed 5% of the payment;

(2) The retention proceeds of any payment due under the terms of a contract from a contractor to a subcontractor may not exceed the percentage of retention proceeds from the owner to the contractor; and

(3) The retention proceeds of any payment due under the terms of a contract from a subcontractor to another subcontractor may not exceed the percentage of retention proceeds from the contractor to the subcontractor.

(d) This section may not be construed to prohibit the withholding of any amount due:

(1) From the owner to the contractor if the owner reasonably determines that the contractor's performance under the contract provides reasonable grounds for withholding the additional amount;

(2) From the contractor to any subcontractor if the contractor reasonably determines that the subcontractor's performance under the subcontract provides reasonable grounds for withholding the additional amount; or

(3) From a subcontractor to another subcontractor if the subcontractor determines that the other subcontractor's performance under the subcontract provides reasonable grounds for withholding the additional amount.

(e) Undisputed retention proceeds retained by an owner under this section shall be paid within 90 days after the date of substantial completion, as defined by the applicable contract or subcontract.

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