



## Retainage Reform on Private Construction

### ASACP Position:

Support legislation to limit retainage on private work to no more than 5 percent.

### The Problem:

“Retainage” is a construction industry practice in which an owner retains a percentage of each progress payment due to a contractor until after the completion of the project. Time value, delayed performance, and risk of non-payment are the real economic costs of retainage to businesses, both large and small. Contractors and subcontractors lose the time value of the retained funds, and, if they are forced to borrow to maintain cash flow, they pay interest to their creditor. They may be forced to delay performance until closer to final payment in order to postpone payments to workers and suppliers. Moreover, contractors and subcontractors continue to bear the risk of nonpayment for as long as funds are retained.

### The Solution:

Amend the “Contractor and Subcontractor Payment Act” to:

- Limit the percentage that a private construction owner can retain from a prime contractor to no more than 5 percent.
- Limit the amount that an owner can withhold for cause from a prime contractor to one and one-half the value of the work in dispute.
- Require the architect/engineer to conduct a final inspection within 10 days after the prime contractor’s notice of substantial completion.
- Require the private owner to make final payment to the prime contractor within 20 days after the architect/engineer issues a certificate of completion, except for one and one-half of the value of incomplete or disputed work.
- Limit the percentage of retainage that a prime contractor can retain from a subcontractor to the amount retained by the owner for the subcontractor’s work.
- Limit the amount that a prime contractor can withhold from a subcontractor to the amount withheld by the owner for the subcontractor’s work.
- Limit the amount that a subcontractor can retain or withhold from a lower-tier subcontractor to the amount retained/withheld by the prime contractor for the lower-tier’s work.
- Establish a late payment interest penalty for unreasonably withheld acceptance of work and late payment of retainage and withholding.

P.O. Box 60902 | Harrisburg, PA 17106 | 717-232-2222

[contactus@asacentralpa.com](mailto:contactus@asacentralpa.com)

[www.asacentralpa.com](http://www.asacentralpa.com)

