



# **Minnesota Subcontractors Association**

## **RETAINAGE REFORMS SIGNED INTO LAW IN MINNESOTA**

The Minnesota Subcontractors Association is honored to notify you that the retainage reforms we have worked to enact have been signed into law by Governor Walz. The MSA helped build a coalition of associations and unions to pass these reforms despite much opposition. The full list of the coalition can be seen following this document.

These retainage reforms will help subcontractors grow their businesses with improved cash flow, greater transparency in payment, and actionable recourse.

The MSA wants to thank the many subcontractors, legal experts, government affairs committee, our coalition, and Senator Rarick and Representative Mahoney who worked to establish a retainage payment date in Minnesota.

Below is a general summary of the new retainage law that will apply to all Minnesota contracts signed on and after August 1, 2019.

### **Highlights of the Retainage Reforms Passed into Law**

- The 2019 retainage reforms will apply to all construction projects utilizing retainage in Minnesota - public and private.
- General contractors must reduce retainage at the same rate that owners reduce retainage.
- Retainage must be released within 60 days of substantial completion of a project. All Subcontractors that have finished their work, turned in their paperwork, and are not involved in a dispute must be paid their retainage at that time.
- If there is a dispute under a subcontract, the general contractor must provide a written statement detailing the amount and reason for the withholding from the affected subcontractor (and pay all non-affected subcontractors their retainage).
- General contractors must pay retainage to their subcontractors according to the prompt payment act (within 10 days of receiving a payment from the owner). If retainage is not paid according to the prompt pay act, a subcontractor that prevails in a lawsuit can recover interest of 18% annually & reasonable attorney's fees.
- Up to the retainage cap of 5%, owners can withhold 250% of the cost to correct or complete work and up to 1% of the contract (or \$500 whichever is more) for failure to provide paperwork. After completion/correction or submission of paperwork, payment must be made in 60 days.

This is not legal advice. Please contact your attorney for advice or questions.



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- Upon request, a public owner must provide information to a Subcontractor regarding the status of retainage payments, progress payments or final payments made to a general contractor.
- Withholding retainage for warranty work is prohibited.
- Payment is not required until the work is completed and/or invoiced.
- A public contracting agency is not required to pay that portion of the contract funded by federal or state aid until the federal or state aid payments are received.
- Covers contracts signed on or after August 1, 2019.
  - Definitions:
    - Substantial completion is defined by MN Statutes 541.051, Subdivision 1(a): “Date of substantial completion shall be determined by the date when construction is sufficiently completed so that the owner or the owner's representative can occupy or use the improvement for the intended purpose.”
    - For road and bridges: “Substantial completion means the date when construction-related traffic devices and ongoing inspections are no longer required.”

## Coalition of Support

Minnesota Subcontractors Association  
Minnesota Mechanical Contractors Association  
Minnesota Electrical Association  
IBEW Minnesota State Council  
Minnesota Nursery and Landscapers Association  
National Association of Minority Contractors  
Minnesota Pipe Trades  
National Electrical Contractors Association of Minnesota  
Minnesota Glass Association  
Minnesota Floor Covering Contractors Association  
Minnesota Painting and Wall-Covering Employers Association  
Twin Cities Glass Association  
Minnesota Plumbing Heating and Air Conditioning Association  
Minnesota Drywall and Plaster Association  
Minnesota Environmental Contractors Association  
National Fire Sprinkler Association Region 15  
Sheet Metal, Air Conditioning & Roofing Contractors Association  
Thermal Insulation Contractors Association  
Minnesota Water Quality Association  
Twin Cities Roofing Contractors Association

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