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DIVISION 4. GENERAL PROVISIONS [3274 - 9566] (*Heading of Division 4 amended by Stats. 1988, Ch. 160, Sec. 16.)*

PART 6. WORKS OF IMPROVEMENT [8000 - 9566] (*Part 6 added by Stats. 2010, Ch. 697, Sec. 20.)*

TITLE 2. PRIVATE WORKS OF IMPROVEMENT [8160 - 8848] (*Title 2 added by Stats. 2010, Ch. 697, Sec. 20.)*

CHAPTER 8. Prompt Payment [8800 - 8848] (*Chapter 8 added by Stats. 2010, Ch. 697, Sec. 20.)*

ARTICLE 2. Retention Payment [8810 - 8822] (*Article 2 added by Stats. 2010, Ch. 697, Sec. 20.)*

8810. This article governs a retention payment withheld by an owner from a direct contractor or by a direct contractor from a subcontractor.

(*Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.*)

8812. (a) If an owner withholds a retention from a direct contractor, the owner shall, within 45 days after completion of the work of improvement, pay the retention to the contractor.

(b) If part of a work of improvement ultimately will become the property of a public entity, the owner may condition payment of a retention allocable to that part on acceptance of the part by the public entity.

(c) If there is a good faith dispute between the owner and direct contractor as to a retention payment due, the owner may withhold from final payment an amount not in excess of 150 percent of the disputed amount.

(*Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.*)

8814. (a) If a direct contractor has withheld a retention from one or more subcontractors, the direct contractor shall, within 10 days after receiving all or part of a retention payment, pay to each subcontractor from whom retention has been withheld that subcontractor's share of the payment.

(b) If a retention received by the direct contractor is specifically designated for a particular subcontractor, the direct contractor shall pay the retention payment to the designated subcontractor, if consistent with the terms of the subcontract.

(c) If a good faith dispute exists between the direct contractor and a subcontractor, the direct contractor may withhold from the retention to the subcontractor an amount not in excess of 150 percent of the estimated value of the disputed amount.

(*Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.*)

8816. (a) If the direct contractor gives the owner, or a subcontractor gives the direct contractor, notice that work in dispute has been completed in accordance with the contract, the owner or direct contractor shall within 10 days give notice advising the notifying party of the acceptance or rejection of the disputed work. Both notices shall comply with the requirements of Chapter 2 (commencing with Section 8100) of Title 1.

(b) Within 10 days after acceptance of disputed work, the owner or direct contractor shall pay the portion of the retention relating to the disputed work.

(*Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.*)

8818. If an owner or direct contractor does not make a retention payment within the time required by this article:

(a) The owner or direct contractor is liable to the person to which payment is owed for a penalty of 2 percent per month on the amount wrongfully withheld, in place of any interest otherwise due.

(b) In an action for collection of the amount wrongfully withheld, the prevailing party is entitled to costs and reasonable attorney's fees.

(*Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.*)

8820. It is against public policy to waive the provisions of this article by contract.

(Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.)

8822. This article does not apply to a retention payment withheld by a lender pursuant to a construction loan agreement.

(Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.)