

SENATE BILL NO. 300—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 24, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing regulation of contractors. (BDR 54-1061)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to contractors; limiting the amount of money that may be withheld as a retention amount under certain contracts and subcontracts; revising provisions governing when contractors and subcontractors may stop work; revising provisions governing payments to contractors and subcontractors; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     **Section 1.** NRS 624.607 is hereby amended to read as follows:  
2     624.607 “Higher-tiered subcontractor” means a subcontractor  
3     under a contract who ~~has entered~~ *enters* into an oral or written  
4     subcontract with another subcontractor *or a supplier* pursuant to  
5     which the other subcontractor ~~has agreed~~ *or supplier agrees* to  
6     perform any of the duties of the subcontractor under the ~~oral or~~  
7     ~~written subcontract.~~ *contract.*  
8     **Sec. 2.** NRS 624.608 is hereby amended to read as follows:  
9     624.608 “Lower-tiered subcontractor” means a subcontractor  
10    *or supplier* who ~~has agreed~~ *agrees* in an oral or written contract to  
11    perform any of the duties of another subcontractor under another  
12    oral or written ~~subcontract.~~ *contract.*  
13    **Sec. 3.** NRS 624.609 is hereby amended to read as follows:  
14    624.609 1. Except as otherwise provided in subsections 2 and  
15    4 and subsection 4 of NRS 624.622, if an owner of real property



1 enters into a written or oral contract with a contractor for the  
2 performance of work by the contractor, the owner must:

3 (a) Pay that contractor on or before the date a payment is due  
4 pursuant to a schedule for payments established in a written  
5 contract; or

6 (b) If no such schedule is established or if the contract is oral,  
7 pay the contractor within 21 days after the date the contractor  
8 submits a request for payment.

9 2. If an owner has complied with subsection 3, the owner may:

10 (a) Withhold from any payment to be made to the contractor:

11 (1) A retention amount that , *if* the owner is authorized to  
12 withhold *a retention amount* pursuant to the contract ~~[.]~~ , *must not*  
13 *exceed 10 percent of the amount of the payment to be made;*

14 (2) An amount equal to the sum of the value of:

15 (I) Any work or labor that has not been performed or  
16 materials or equipment that has not been furnished for which  
17 payment is being sought; and

18 (II) Costs and expenses reasonably necessary to correct or  
19 repair any work which is the subject of the request for payment and  
20 which is not materially in compliance with the contract to the extent  
21 that such costs and expenses exceed 50 percent of the *retention*  
22 amount withheld pursuant to subparagraph (1); and

23 (3) The amount the owner has paid or is required to pay  
24 pursuant to an official notice from a state agency or employee  
25 benefit trust fund, for which the owner is or may reasonably be  
26 liable for the contractor or his subcontractors in accordance with  
27 chapter 608, 612, 616A to 616D, inclusive, or 617 of NRS; and

28 (b) Require as a condition precedent to the payment of any  
29 amount due, lien releases furnished by the contractor and his  
30 subcontractors and suppliers ~~[. For purposes of this paragraph:~~

31 ~~—— (1) If the amount due is paid with a check or is not paid~~  
32 ~~concurrently with the owner's receipt of the lien releases, the lien~~  
33 ~~releases must be conditioned upon the check clearing the bank upon~~  
34 ~~which it is drawn and the receipt of payment and shall be deemed to~~  
35 ~~become unconditional upon the receipt of payment; and~~

36 ~~—— (2) The lien releases must be limited to the amount of the~~  
37 ~~payment—received.] in accordance with the provisions of~~  
38 *paragraphs (a) and (c) of subsection 4 of NRS 108.2457.*

39 3. If, pursuant to ~~[subparagraph (2) or (3) of paragraph (a) of~~  
40 ~~subsection 2 or paragraph (b) of]~~ subsection 2, an owner intends to  
41 withhold ~~[any amount]~~ from a payment to be made to a contractor  
42 ~~[.]~~ *any amount in addition to the retention amount*, the owner must  
43 give, on or before the date the payment is due, a written notice to the  
44 contractor of ~~[any]~~ *the additional* amount that will be withheld. The  
45 written notice must:



(a) Identify the amount of the request for payment that will be withheld from the contractor;

(b) Give a reasonably detailed explanation of the reason the owner will withhold that amount, including, without limitation, a specific reference to the provision or section of the contract, and any documents relating thereto, and the applicable building code, law or regulation with which the contractor has failed to comply; and

(c) Be signed by an authorized agent of the owner.

4. A contractor who receives a notice pursuant to subsection 3 may *correct any condition described in the notice and* provide written notice *of the correction* to the owner. ~~[of the correction of a condition described in the notice received pursuant to subsection 3.]~~ The notice of correction must be sufficient to identify the scope and manner of the correction of the condition and be signed by an authorized representative of the contractor. If an owner receives a written notice from the contractor of the correction of a condition pursuant to this subsection, the owner ~~[must:]~~ *shall:*

(a) Pay the amount withheld by the owner for that condition on or before the date the next payment is due the contractor; or

(b) Object to the scope and manner of the correction of the condition, on or before the date the next payment is due to the contractor, in a written statement which sets forth the reason for the objection and which complies with subsection 3. If the owner objects to the scope and manner of the correction of a condition, he shall nevertheless pay to the contractor, along with payment made pursuant to the contractor's next payment request, the amount withheld for the correction of conditions to which the owner no longer objects.

*5. Except as otherwise provided in subsections 2, 3 and 4, an owner shall not withhold from a contractor any payment in excess of the retention amount.*

**Sec. 4.** NRS 624.610 is hereby amended to read as follows:

624.610 1. If ~~[an]~~ :

(a) *An* owner fails ~~[to:]~~

~~—(a) Pay]~~ *to pay* the contractor in the time and manner required by subsection 1 or 4 of NRS 624.609; ~~[or~~

~~—(b) Give]~~

*(b) An owner fails to give* the contractor written notice of any withholding in the time and manner required by subsection 3 or 4 of NRS 624.609 ~~[:]~~ ; *or*

*(c) A contractor disagrees with a written notice provided by an owner in the time and manner required by subsection 3 or 4 of NRS 624.609,*

➡ the contractor may stop work after giving written notice to the owner at least 10 days before stopping work. If a contractor stops



1 work pursuant to this subsection, the contractor may terminate the  
2 contract by giving written notice of termination to the owner after  
3 stopping work but at least 15 days before terminating the contract. If  
4 the contractor is paid the amount due before the date for termination  
5 of the contract set forth in the written notice, the contractor shall not  
6 terminate the contract and shall resume his work.

7 2. If the owner through his own act or neglect, or through an  
8 act or neglect of his agent, excluding acts of God, floods, fires, labor  
9 disputes, strikes or reasonable adjustments to work schedules,  
10 causes the work to be stopped for a period of 15 days or more, the  
11 contractor may terminate the contract if:

12 (a) The contractor gives written notice of his intent to terminate  
13 to the owner at least 10 days before terminating the contract; and

14 (b) The owner fails to allow work to resume within the time set  
15 forth in the written notice given pursuant to paragraph (a).

16 3. If a contractor stops work pursuant to subsection 1, the  
17 owner may terminate the contract by giving the contractor written  
18 notice of his intent to terminate at least 15 days before terminating  
19 the contract.

20 4. If the contract is terminated pursuant to subsection 2, or if  
21 the contractor stops work in accordance with this section and the  
22 contract is terminated pursuant to subsection 1 or 3, the contractor is  
23 entitled to recover from the owner payment in an amount found by a  
24 trier of fact to be due the contractor, including, without limitation:

25 (a) The cost of all work, labor, materials, equipment and  
26 services furnished by and through the contractor, including any  
27 profit and overhead the contractor incurred or earned through the  
28 date of termination;

29 (b) The profit that the contractor and his subcontractors would  
30 have received if the contract had been performed in full;

31 (c) Interest at a rate equal to the rate agreed upon in the contract  
32 or, if no interest rate is so provided, then interest at a rate equal to  
33 the prime rate at the largest bank in this State, as determined by the  
34 Commissioner of Financial Institutions on January 1 or July 1, as  
35 the case may be, immediately preceding:

36 (1) The time the contract was signed; or

37 (2) If the contract was oral, the time the terms of the contract  
38 were agreed to by the parties,

39 ➤ plus 2 percent; and

40 (d) The reasonable costs, including court costs, incurred by the  
41 contractor and his subcontractors in collecting the amount due ~~f~~

42 ~~➤ -At~~ *and in defending any related claim or counterclaim brought*  
43 *by the owner against the contractor and his subcontractors. In* any  
44 action brought to enforce the rights or obligations set forth in this  
45 subsection, the trier of fact ~~may~~ *shall* award reasonable attorney's



1 fees to the contractor ~~[or]~~, *except that* if the trier of fact determines  
2 that the contractor stopped work or terminated the contract without  
3 reasonable cause, the trier of fact may award reasonable attorney's  
4 fees to the owner.

5 5. If a contractor stops work pursuant to subsection 1, each  
6 subcontractor with whom the contractor has contracted who has not  
7 fully performed under that contract may also stop work on the  
8 project. If a contractor terminates a contract pursuant to this section,  
9 all such subcontractors may terminate their contracts with the  
10 contractor.

11 6. The right of a contractor to stop work or terminate a contract  
12 pursuant to this section is in addition to all other rights that the  
13 contractor may have at law or in equity and does not impair or affect  
14 the right of a contractor to maintain a civil action or to submit any  
15 controversy arising under the contract to arbitration.

16 7. No contractor or his subcontractors, or their respective  
17 sureties, may be held liable for any delays or damages that an owner  
18 may suffer as a result of the contractor, subcontractor or lower-  
19 tiered subcontractor stopping his work or terminating a contract for  
20 reasonable cause and in accordance with this section or  
21 NRS 624.626.

22 **Sec. 5.** NRS 624.620 is hereby amended to read as follows:

23 624.620 1. Except as otherwise provided in this section, any  
24 money remaining unpaid for the construction of a work of  
25 improvement is payable to the contractor within 30 days after:

26 (a) Occupancy or use of the work of improvement by the owner  
27 or by a person acting with the authority of the owner; or

28 (b) The availability of a work of improvement for its intended  
29 use. The contractor must have ~~[given-a]~~ *provided to the owner:*

30 (1) *A written notice of availability ~~[to the owner]~~ on or*  
31 *before the day on which he claims that the work of improvement*  
32 *became available for use or occupancy ~~[ ]~~; or*

33 (2) *A certificate of occupancy issued by the appropriate*  
34 *building inspector or other authority.*

35 2. If the owner has complied with subsection 3, the owner may:

36 (a) Withhold payment for the amount of:

37 (1) Any work or labor that has not been performed or  
38 materials or equipment that has not been furnished for which  
39 payment is sought;

40 (2) The costs and expenses reasonably necessary to correct or  
41 repair any work that is not materially in compliance with the  
42 contract to the extent that such costs and expenses exceed 50 percent  
43 of the amount of retention being withheld pursuant to the terms of  
44 the contract; and



(3) Money the owner has paid or is required to pay pursuant to an official notice from a state agency, or employee benefit trust fund, for which the owner is liable for the contractor or his subcontractors in accordance with chapter 608, 612, 616A to 616D, inclusive, or 617 of NRS.

(b) Require, as a condition precedent to the payment of any unpaid amount under the construction contract, that lien releases be furnished by the contractor's subcontractors, suppliers or employees ~~[. For purposes of this paragraph:~~

~~— (1) If the amount due is paid with a check or is not paid concurrently with the owner's receipt of the lien releases, the lien releases must be conditioned upon the check clearing the bank upon which it is drawn and the receipt of payment and shall be deemed to become unconditional upon the receipt of payment; and~~

~~— (2) The lien releases must be limited to the amount of the payment received.] in accordance with the provisions of paragraphs (a) and (c) of subsection 4 of NRS 108.2457.~~

3. If, pursuant to paragraph (a) of subsection 2, an owner intends to withhold any amount from a payment to be made to a contractor, the owner must, on or before the date the payment is due, give written notice to the contractor of any amount that will be withheld. The written notice must:

(a) Identify the amount that will be withheld from the contractor;

(b) Give a reasonably detailed explanation of the reason the owner will withhold that amount, including, without limitation, a specific reference to the provision or section of the contract, and any documents relating thereto, and the applicable building code, law or regulation with which the contractor has failed to comply; and

(c) Be signed by an authorized agent of the owner.

4. A contractor who receives a notice pursuant to subsection 3 may provide written notice to the owner of the correction of a condition described in the notice received pursuant to subsection 3. The notice of correction must be sufficient to identify the scope and manner of the correction of the condition and be signed by an authorized representative of the contractor. If an owner receives a written notice from the contractor of the correction of a condition described in an owner's notice of withholding pursuant to subsection 3, the owner must, within 10 days after receipt of such notice:

(a) Pay the amount withheld by the owner for that condition; or

(b) Object to the scope and manner of the correction of the condition in a written statement that sets forth the reason for the objection and complies with subsection 3. If the owner objects to the scope and manner of the correction of a condition, he shall



1 nevertheless pay to the contractor, along with payment made  
2 pursuant to the contractor's next payment request, the amount  
3 withheld for the correction of conditions to which the owner no  
4 longer objects.

5 5. The partial occupancy or availability of a building requires  
6 payment in direct proportion to the value of the part of the building  
7 which is partially occupied or partially available. For projects which  
8 involve more than one building, each building must be considered  
9 separately in determining the amount of money which is payable to  
10 the contractor.

11 6. ~~Unless otherwise provided in the construction contract, any~~  
12 **Any** money which is payable to a contractor pursuant to this section  
13 accrues interest at a rate equal to the lowest daily prime rate at the  
14 largest bank in this State, as determined by the Commissioner of  
15 Financial Institutions on January 1 or July 1, as the case may be,  
16 immediately preceding:

17 (a) The time the contract was signed; or

18 (b) If the contract was oral, the time the terms of the contract  
19 were agreed to by the parties,  
20 ➤ plus 2 percent.

21 7. This section does not apply to ~~f~~:

22 ~~—(a) Any residential building; or~~

23 ~~—(b) Public~~ **public** works.

24 8. As used in this section, unless the context otherwise  
25 requires, "work of improvement" has the meaning ascribed to it in  
26 NRS 108.22188.

27 **Sec. 6.** NRS 624.624 is hereby amended to read as follows:

28 624.624 1. Except as otherwise provided in this section, if a  
29 contractor or higher-tiered subcontractor enters into:

30 (a) A written subcontract with a subcontractor that includes a  
31 schedule for payments, the contractor or higher-tiered subcontractor  
32 shall pay the subcontractor:

33 (1) On or before the date payment is due; or

34 (2) Within 10 days after the date the contractor or higher-  
35 tiered subcontractor receives payment for all or a portion of the  
36 work, labor, materials, equipment or services described in a request  
37 for payment submitted by the subcontractor,

38 ➤ whichever is earlier.

39 (b) A written subcontract that does not contain a schedule for  
40 payments, or a subcontract that is oral, the contractor or higher-  
41 tiered subcontractor shall pay the subcontractor:

42 (1) Within 30 days after the date the subcontractor submits a  
43 request for payment; or

44 (2) Within 10 days after the date the contractor or higher-  
45 tiered subcontractor receives payment for all or a portion of the



1 work, labor, materials, equipment or services described in a request  
2 for payment submitted by the subcontractor,

3 ➤ whichever is earlier.

4 2. If a contractor or higher-tiered subcontractor has complied  
5 with subsection 3, the contractor or higher-tiered subcontractor may:

6 (a) Withhold from any payment owed to the subcontractor:

7 (1) A retention amount that , *if the contractor or higher-*  
8 *tiered* subcontractor is authorized to withhold *a retention amount*  
9 pursuant to the ~~[contract-;]~~ *subcontract, must not exceed 10 percent*  
10 *of the amount of the payment to be made;*

11 (2) An amount equal to the sum of the value of:

12 (I) Any work or labor that has not been performed or  
13 materials or equipment that has not been furnished for which  
14 payment is being sought; and

15 (II) Costs and expenses reasonably necessary to correct or  
16 repair any work which is the subject of the request for payment and  
17 which is not materially in compliance with the subcontract to the  
18 extent that such costs and expenses exceed 50 percent of the  
19 *retention* amount withheld pursuant to subparagraph (1); and

20 (3) The amount the owner, contractor or higher-tiered  
21 subcontractor has paid or is required to pay pursuant to an official  
22 notice from a state agency or employee benefit trust fund, for which  
23 the owner, contractor or higher-tiered subcontractor is or may  
24 reasonably be liable for the subcontractor or his subcontractors in  
25 accordance with chapter 608, 612, 616A to 616D, inclusive, or 617  
26 of NRS; and

27 (b) Require as a condition precedent to the payment of any  
28 amount due, lien releases furnished by the subcontractor and his  
29 lower-tiered subcontractors and suppliers ~~[. For purposes of this~~  
30 ~~paragraph:~~

31 ~~—— (1) If the amount due is paid with a check or is not paid~~  
32 ~~concurrently with the contractor's or higher tiered subcontractor's~~  
33 ~~receipt of the lien releases, the lien releases must be conditioned~~  
34 ~~upon the check clearing the bank upon which it is drawn and the~~  
35 ~~receipt of payment and shall be deemed to become unconditional~~  
36 ~~upon the receipt of payment; and~~

37 ~~—— (2) The lien releases must be limited to the amount of the~~  
38 ~~payment received.] in accordance with the provisions of~~  
39 ~~paragraphs (a) and (c) of subsection 4 of NRS 108.2457.~~

40 3. If, pursuant to ~~[subparagraph (2) or (3) of paragraph (a) of~~  
41 ~~subsection 2 or paragraph (b) of]~~ subsection 2, a contractor or  
42 higher-tiered subcontractor intends to withhold ~~[any amount]~~  
43 payment to be made to a subcontractor ~~[;]~~ *any amount in addition*  
44 *to the retention amount*, the contractor or higher-tiered  
45 subcontractor must give, on or before the date the payment is due, a





1 written notice to the subcontractor of ~~any~~ *the additional* amount  
2 that will be withheld and give a copy of such notice to all reputed  
3 higher-tiered subcontractors, contractors and the owner. The written  
4 notice must:

5 (a) Identify the amount of the request for payment that will be  
6 withheld from the subcontractor;

7 (b) Give a reasonably detailed explanation of the reason the  
8 contractor or higher-tiered subcontractor will withhold that amount,  
9 including, without limitation, a specific reference to the provision or  
10 section of the subcontract, and any documents relating thereto, and  
11 the applicable building code, law or regulation with which the  
12 subcontractor has failed to comply; and

13 (c) Be signed by an authorized agent of the contractor or higher-  
14 tiered subcontractor.

15 4. A subcontractor who receives a notice pursuant to  
16 subsection 3 may provide written notice to the contractor or higher-  
17 tiered subcontractor of the correction of a condition described in the  
18 notice received pursuant to subsection 3. The notice of correction  
19 must be sufficient to identify the scope and manner of the correction  
20 of the condition and be signed by an authorized representative of the  
21 subcontractor. If a contractor or higher-tiered subcontractor receives  
22 a written notice from the subcontractor of the correction of a  
23 condition pursuant to this subsection, the contractor or higher-tiered  
24 subcontractor ~~must~~ *shall*:

25 (a) Pay the amount withheld by the contractor or higher-tiered  
26 subcontractor for that condition on or before the date the next  
27 payment is due the subcontractor; or

28 (b) Object to the scope and manner of the correction of the  
29 condition, on or before the date the next payment is due to the  
30 subcontractor, in a written statement which sets forth the reason for  
31 the objection and which complies with subsection 3. If the  
32 contractor or higher-tiered subcontractor objects to the scope and  
33 manner of the correction of a condition, he shall nevertheless pay to  
34 the subcontractor, along with payment made pursuant to the  
35 subcontractor's next payment request, the amount withheld for the  
36 correction of conditions to which the contractor or higher-tiered  
37 subcontractor no longer objects.

38 *5. Except as otherwise provided in subsections 2, 3 and 4, a*  
39 *contractor or higher-tiered subcontractor shall not withhold from*  
40 *a subcontractor any payment in excess of the retention amount.*

41 *6. Except as otherwise provided in this section, any money*  
42 *remaining unpaid for the construction of a work of improvement*  
43 *is payable to a subcontractor:*

44 *(a) Within 60 days after the subcontractor submits a request*  
45 *for final payment; or*



(b) *Within 10 days after the contractor or higher-tiered subcontractor receives payment for the work, labor, materials, equipment or services described in the final payment request if:*

(1) *The subcontract provides that the contractor or higher-tiered subcontractor must pay the subcontractor only when the contractor or higher-tiered subcontractor is paid; and*

(2) *The subcontractor is a specialty contractor:*

(I) *Who has fully performed his work under the subcontract; and*

(II) *Whose work is subject to, and has been approved after, a required final inspection by a local building department.*

Sec. 7. NRS 624.626 is hereby amended to read as follows:

624.626 1. If ~~{+}~~:

(a) A contractor or higher-tiered subcontractor fails to ~~{+}~~  
~~—(a) Pay~~ pay the subcontractor within the time provided in subsection 1 or 4 of NRS 624.624;

(b) ~~{Pay}~~ A contractor or higher-tiered subcontractor fails to pay the subcontractor within ~~{45 days after the 25th day of the month in}~~ 60 days after the date on which the subcontractor submits a request for payment, even if the contractor or higher-tiered subcontractor has not been paid and the subcontract contains a provision which requires the contractor or higher-tiered subcontractor to pay the subcontractor only if or when the contractor or higher-tiered subcontractor is paid; ~~{or}~~

~~—(c) Give~~

(c) A contractor or higher-tiered subcontractor fails to give the subcontractor written notice of any withholding in the time and manner required by subsection 3 or 4 of NRS 624.624 ~~{+}~~; or

(d) A subcontractor disagrees with a written notice provided by a contractor or higher-tiered subcontractor in the time and manner required by subsection 3 or 4 of NRS 624.624 and provides the contractor or higher-tiered subcontractor with a written explanation of the reason for the disagreement,

→ the subcontractor may stop work under the subcontract until payment is received if the subcontractor gives written notice to the contractor or higher-tiered subcontractor at least 10 days before stopping work.

2. If a subcontractor stops work pursuant to paragraph (a) or (c) of subsection 1, the subcontractor may terminate the subcontract by giving written notice of the termination to the contractor or higher-tiered subcontractor after stopping work but at least 15 days before the termination of the subcontract. If the subcontractor is paid the amount due before the date for termination set forth in the written notice, the subcontractor shall not terminate the subcontract and shall resume work.



1 3. If an owner, contractor or higher-tiered subcontractor  
2 through his own act or neglect, or through an act or neglect of his  
3 agent, excluding acts of God, floods, fires, labor disputes, strikes or  
4 reasonable adjustments in work schedules, causes the work to be  
5 stopped for a period of 15 days or more, the subcontractor may  
6 terminate the subcontract if:

7 (a) The subcontractor gives written notice of his intent to  
8 terminate to the contractor or higher-tiered subcontractor at least 10  
9 days before terminating the subcontract; and

10 (b) The contractor or higher-tiered subcontractor fails to allow  
11 the subcontractor to resume the work within the time set forth in the  
12 written notice given pursuant to paragraph (a).

13 4. If a subcontractor stops work pursuant to paragraph (a) or (c)  
14 of subsection 1, the contractor or higher-tiered subcontractor may  
15 terminate the subcontract by giving the subcontractor written notice  
16 of his intent to terminate at least 15 days before terminating the  
17 subcontract.

18 5. If the subcontract is terminated pursuant to subsection 3, or  
19 if the subcontractor stops work in accordance with this section and  
20 the subcontract is terminated pursuant to subsection 2 or 4, the  
21 subcontractor is entitled to recover from the contractor or higher-  
22 tiered subcontractor with whom he has contracted the amount found  
23 by a trier of fact to be due the subcontractor, including, without  
24 limitation:

25 (a) The cost of all work, labor, materials, equipment and  
26 services furnished by and through the subcontractor, including any  
27 profit and overhead the subcontractor incurred or earned through the  
28 date of termination;

29 (b) The profit that the subcontractor and his lower-tiered  
30 subcontractors would have received if the subcontract had been  
31 performed in full;

32 (c) Interest at a rate equal to the rate agreed upon in the  
33 subcontract or, if no interest rate is so provided, interest at a rate  
34 equal to the prime rate at the largest bank in this State, as  
35 determined by the Commissioner of Financial Institutions on  
36 January 1 or July 1, as the case may be, immediately preceding:

37 (1) The time the subcontract was signed; or

38 (2) If the subcontract was oral, the time the terms of the  
39 subcontract were agreed upon by the parties,

40 ➤ plus 2 percent; and

41 (d) The reasonable costs, including court costs, incurred by the  
42 subcontractor and his lower-tiered subcontractors in collecting the  
43 amount due.

44 ➤ ~~For~~ In any action brought to enforce the rights or obligations set  
45 forth in this subsection, the trier of fact may award reasonable



1 attorney's fees to the subcontractor or, if the trier of fact determines  
2 that the subcontractor stopped work or terminated the contract  
3 without reasonable cause, the trier of fact may award reasonable  
4 attorney's fees to the contractor or higher-tiered subcontractor.

5 6. If a subcontractor stops work pursuant to this section, each  
6 lower-tiered subcontractor with whom the subcontractor has  
7 contracted who has not fully performed under the contract may also  
8 stop work on the project. If a subcontractor terminates a subcontract  
9 pursuant to this section, all such lower-tiered subcontractors may  
10 terminate their contracts with the subcontractor.

11 7. The right of a subcontractor to stop work or terminate a  
12 subcontract pursuant to this section is in addition to all other rights  
13 that the subcontractor may have at law or in equity and does not  
14 impair or affect the right of a subcontractor to maintain a civil action  
15 or to submit any controversy arising under the contract to  
16 arbitration.

17 8. No subcontractor or his lower-tiered subcontractors, or their  
18 respective sureties, may be held liable for any delays or damages  
19 that an owner, contractor or higher-tiered subcontractor may suffer  
20 as a result of the subcontractor or lower-tiered subcontractor  
21 stopping his work or terminating a subcontract for reasonable cause  
22 and in accordance with this section.

