

13-8-4 Obligation to pay under construction contracts -- Rights of parties under contingent payment provisions.

- (1) For purposes of this section:
 - (a) "Construction contract" means a contract or agreement to provide services, labor, or materials for the design, construction, installation, or repair of an improvement to real property located in Utah.
 - (b) "Contingent payment contract" means a construction contract between a contractor and a subcontractor that makes a payment from the contractor to the subcontractor contingent on the contractor receiving a corresponding payment from any other public or private party, including a private owner.
 - (c) "Contractor" means a person who is or may be awarded a contract for the construction, alteration, or repair of any building, structure, or improvement to real property.
 - (d) "Subcontractor" means any person engaged by a contractor to provide services, labor, or materials for the design, construction, installation, or repair of an improvement to real property and includes a trade contractor or specialty contractor.
- (2) A party to a construction contract shall make all scheduled payments under the terms of the construction contract.
- (3)
 - (a) The existence of a contingent payment contract is not a defense to a claim to enforce a preconstruction or construction lien under Title 38, Chapter 1a, Preconstruction and Construction Liens.
 - (b) Subsection (3) does not apply to contracts for private construction work for the building, improvement, repair, or remodeling of residential property consisting of four units or less.
- (4) If a construction contract is a contingent payment contract:
 - (a) the subcontractor may request from the contractor the financial information that the contractor has received from the public or private party regarding:
 - (i) the project financing; and
 - (ii) the public or private party; and
 - (b) if information is requested by the subcontractor under Subsection (4)(a), the contractor shall provide the information prior to the subcontractor signing the construction contract between the contractor and the subcontractor.
- (5) This section applies to a contract executed on or after May 5, 1997.

Amended by Chapter 278, 2012 General Session