

## **Part 6 Payment Provisions**

### **58-55-601 Payment -- Account designated.**

When making any payment to a materialman, supplier, contractor, or subcontractor with whom he has a running account, or with whom he has more than one contract, or to whom he is otherwise indebted, the contractor shall designate the contract under which the payment is made or the items of account to which it is to be applied. When a payment for materials or labor is made to a subcontractor or materialman, the subcontractor or materialman shall demand of the person making the payment a designation of the account and the items of account to which the payment is to apply. In cases where a lien is claimed for materials furnished or labor performed by a subcontractor or materialman, it is a defense to the claim that a payment was made by the owner to the contractor for the materials and was so designated and paid over to the subcontractor or materialman, if when the payment was received by the subcontractor or materialman, he did not demand a designation of the account and of the items of account to which the payment was to be applied.

Renumbered and Amended by Chapter 181, 1994 General Session

### **58-55-602 Payment of construction funds -- Interest.**

- (1) All unpaid construction funds are payable to the contractor as provided in Section 13-8-5.
- (2) On projects involving multiple buildings, each building shall be considered individually in determining the amount to be paid the contractor.
- (3) Partial occupancy of a building requires payment in direct proportion to the value of the part of the building occupied.
- (4) If any payment is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Amended by Chapter 365, 1999 General Session

### **58-55-603 Payment to subcontractors and suppliers.**

- (1) When a contractor receives any construction funds from an owner or another contractor for work performed and billed, he shall pay each of his subcontractors and suppliers in proportion to the percentage of the work they performed under that billing, unless otherwise agreed by contract.
- (2) If, under this section and without reasonable cause, or unless otherwise agreed by contract, the contractor fails to pay for work performed by his subcontractors or suppliers within 30 consecutive days after receiving construction funds from the owner or another contractor for work performed and billed, or after the last day payment is due under the terms of the billing, whichever is later, he shall pay to the subcontractor or supplier, in addition to the payment, interest in the amount of 1% per month of the amount due, beginning on the day after payment is due, and reasonable costs of any collection and attorney's fees.
- (3) When a subcontractor receives any construction payment under this section, Subsections (1) and (2) apply to that subcontractor.

Renumbered and Amended by Chapter 181, 1994 General Session

**58-55-604 Proof of licensure to maintain or commence action.**

A contractor or alarm business or company may not act as agent or commence or maintain any action in any court of the state for collection of compensation for performing any act for which a license is required by this chapter without alleging and proving that the licensed contractor or alarm business or company was appropriately licensed when the contract sued upon was entered into, and when the alleged cause of action arose.

Amended by Chapter 377, 2008 General Session

**58-55-605 Pay statement required.**

(1) On the day on which a person licensed under this chapter pays an individual for work that the individual performed, the person shall give the individual a written or electronic pay statement that states:

- (a) the individual's name;
- (b) the individual's base rate of pay;
- (c) the dates of the pay period for which the individual is being paid;
- (d) if paid hourly, the number of hours the individual worked during the pay period;
- (e) the amount of and reason for any money withheld in accordance with state or federal law, including:
  - (i) state and federal income tax;
  - (ii) Social Security tax;
  - (iii) Medicare tax; and
  - (iv) court-ordered withholdings; and
- (f) the total amount paid to the individual for that pay period.

(2) A person licensed under this chapter shall:

- (a) comply with the requirements described in Subsection (1) regardless of whether the licensee pays the individual by check, cash, or other means;
- (b) retain a copy of each pay statement described in Subsection (1) for at least three years after the day on which the person gives a copy of the pay statement to the individual; and
- (c) upon request, make the pay statement records described in this section available to the division for inspection.

Enacted by Chapter 188, 2014 General Session