

# STATE OF NEW YORK

3539

2023-2024 Regular Sessions

## IN SENATE

January 31, 2023

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to payment and retainage in construction contracts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph of paragraph (a) of subdivision 2 of  
2 section 756-a of the general business law, as amended by chapter 417 of  
3 the laws of 2009, is amended to read as follows:

4 A contractor shall be entitled to invoice the owner for interim  
5 payments at the end of the billing cycle. A contractor shall be entitled  
6 to submit a final invoice for payment in full [~~upon the performance of~~  
7 ~~all the contractor's obligation under the contract~~] upon reaching  
8 substantial completion, as such term is defined in the contract or as it  
9 is contemplated by the terms of the contract.

10 § 2. Section 756-c of the general business law, as added by chapter  
11 127 of the laws of 2002, is amended to read as follows:

12 § 756-c. Retention. By mutual agreement of the relevant parties an  
13 owner may retain [~~a reasonable amount~~] no more than five per centum of  
14 the contract sum as retainage. A contractor or subcontractor may also  
15 retain [~~a reasonable amount~~] no more than five per centum for retainage  
16 [~~so long as the amount does not~~] and in no case shall retainage exceed  
17 the actual percentage retained by the owner. Retainage shall be released  
18 by the owner to the contractor no later than thirty days after the final  
19 approval of the work under a construction contract. In the event that an  
20 owner fails to release retainage as required by this article, or the  
21 contractor or subcontractor fails to release a proportionate amount of  
22 retainage to the relevant parties after receipt of retainage from the  
23 owner, the owner, contractor, or subcontractor, as the case may be,  
24 shall be subject to the payment of interest at the rate of one percent  
25 per month on the date retention was due and owing.

26 § 3. This act shall take effect immediately and shall apply to  
27 contracts entered into on or after such effective date.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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