



NSCB Industry Bulletin



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CONSTRUCTION RETENTION ON PUBLIC AND PRIVATE WORKS PROJECTS CHANGES JANUARY 1, 2016

HENDERSON and RENO, Nev. – The Nevada State Contractors Board wishes to inform Nevada’s licensed contractors of new rules regarding construction retention practices, which become effective January 1, 2016. The 2015 Legislature amended both public and private works laws relating to retention.

Section 2 of [Senate Bill 254](#) clarifies that retainage withheld through completion of 50 percent of the work on a public works project must be 5 percent. The statute previously provided that retainage was “no more than” 5 percent, permitting discretion to retain a lesser percentage. The amendment makes the 5 percent nondiscretionary.

Section 4 of SB 254 reduces the statutory limit of the amount that an owner may withhold from a prime contractor as retention from 10 to 5 percent, if the owner is authorized to retain any amount under the provisions of the parties’ contract. It also makes issuance of a temporary certificate of occupancy, like a certificate of occupancy, a trigger for the owner’s 30-day obligation to pay retention to its prime contractor, barring the owner’s exercise of its right to notice up disputed issues under NRS 624.209(2)-(3).

Section 5 imposes the same 5 percent limitation upon a higher-tier contractor withholding retention from a lower-tier contractor.

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