

Rep.  
Michelle Marcolle  
5/10

1 § 4007. DISPUTES; PENALTIES; ATTORNEYS' FEES

2 (a) Nothing in this chapter shall prevent an owner, contractor, or  
3 subcontractor from withholding payment in whole or in part under a  
4 construction contract in an amount equalling the value of any good faith claims  
5 against an invoicing contractor or subcontractor, including claims arising from  
6 unsatisfactory job progress, defective construction, disputed work, or third-  
7 party claims.

8 (b) If arbitration or litigation is commenced to recover payment due under  
9 the terms of this chapter and it is determined that an owner, contractor, or  
10 subcontractor has failed to comply with the payment terms of this chapter, the  
11 arbitrator or court shall award, in addition to all other damages due and as a  
12 penalty, an amount equal to one percent per month of all sums as to which  
13 payment has wrongfully been withheld. An amount shall not be deemed to  
14 have been wrongfully withheld to the extent it bears a reasonable relation to  
15 the value of any claim held in good faith by the owner, contractor, or  
16 subcontractor against which an invoicing contractor, or subcontractor is  
17 seeking to recover payment.

18 (c) Notwithstanding any contrary agreement, the substantially prevailing  
19 party in any proceeding to recover any payment within the scope of this  
20 chapter shall be awarded reasonable attorney's fees in an amount to be  
21 determined by the court or arbitrator, together with expenses.