

**290.9705 SURETY DEPOSITS REQUIRED FOR CONSTRUCTION CONTRACTS.**

Subdivision 1. **Withholding of payments to out-of-state contractors.** (a) In this section, "person" means a person, corporation, or cooperative, the state of Minnesota and its political subdivisions, and a city, county, and school district in Minnesota.

(b) A person who in the regular course of business is hiring, contracting, or having a contract with a nonresident person or foreign corporation, as defined in Minnesota Statutes 1986, section 290.01, subdivision 5, to perform construction work in Minnesota, shall deduct and withhold eight percent of cumulative calendar year payments to the contractor which exceed \$50,000.

Subd. 2. [Repealed, 1990 c 480 art 1 s 45]

Subd. 3. **Waiver of withholding.** The conditions in subdivisions 1 and 2 may be waived by the commissioner if (1) the contractor gives the commissioner a cash surety or a bond, secured by an insurance company licensed by Minnesota, conditioned that the contractor will comply with all applicable provisions of this chapter and chapter 297A, or (2) the contractor has done construction work in Minnesota at any time during the three calendar years prior to entering the contract and has fully complied with all the provisions of this chapter and chapter 297A for the three prior years.

Subd. 4. **Deposits used as surety for compliance with income and sales tax provisions.** The amounts deposited with the commissioner under subdivision 1 are considered a surety to guarantee payment of income, franchise, withholding, and sales and use taxes of the contractor. The commissioner shall retain the money deposited until the commissioner determines the contractor's liability for state income, franchise, sales and use taxes, and taxes withheld under section 290.92.

**History:** 1989 c 28 s 22; 1990 c 480 art 1 s 35; 1Sp2005 c 3 art 3 s 15