

LEGISLATIVE COUNCIL

**Building and Construction Industry Security of Payment Amendment Bill 2013**

**First print**

**Proposed amendments**

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No. 1      Page 4, Schedule 1. Insert after line 21:

**[5]    Section 12A**

Insert after section 12:

**12A    Trust account requirements for retention money**

- (1) The regulations may make provision for or with respect to requiring retention money to be held in trust for the subcontractor entitled to the money and requiring the head contractor who holds retention money to pay the money into a trust account (a *retention money trust account*) established and operated in accordance with the regulations.
- (2) The regulations may provide for the trust account into which retention money is to be paid to be a trust account established with a financial institution by the head contractor or a trust account established and operated by the Small Business Commissioner.
- (3) Without limitation, the regulations under this section may include provision for or with respect to the following:
  - (a) the procedures to be followed in connection with the authorisation of payments out of a retention money trust account,
  - (b) the keeping of records in connection with the operation of a retention money trust account and the inspection of those records by the Small Business Commissioner,
  - (c) the resolution of disputes in connection with the operation of a retention money trust account.
- (4) A regulation may create an offence punishable by a penalty not exceeding 200 penalty units for any failure to comply with the requirements of the regulations under this section.
- (5) In this section, *retention money* means money retained by a head contractor out of money payable by the head contractor to a subcontractor under a construction contract, as security for the performance of obligations of the subcontractor under the contract.