

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - State Finance and Procurement

11-136.2.

(a) (1) In a Department of Transportation or Maryland Transportation Authority construction or reconstruction contract, in order to have retained funds paid to an escrow agent, a contractor, the contractor's escrow agent, and the contractor's surety must execute an escrow agreement form to be submitted to the Department of Transportation or the Maryland Transportation Authority for approval.

(2) (i) The contract shall define the escrow agent.

(ii) The escrow agreement form shall contain the complete address of the escrow agent and surety.

(3) The executed escrow agreement authorizes the Department of Transportation or the Maryland Transportation Authority to make payment of retained funds to the escrow agent.

(b) If a contractor elects to utilize the escrow account procedure described in this section, the contractor shall indicate the election in the space provided on the proposed documents. If the contractor fails to indicate an election or refuses the election, the contractor shall forfeit rights to the use of the escrow account.

(c) (1) Except as provided in paragraph (2) of this subsection, and if federal regulations permit application of this requirement to federally funded projects without jeopardy to timely recovery of federal funds, the Department of Transportation or the Maryland Transportation Authority shall pay to the escrow agent the funds retained.

(2) Funds withheld for lack of progress or other contractor violations on the part of the contractor may not be paid to the escrow agent.

(3) The escrow agent, in accordance with the stipulations contained in the escrow agreement may:

(i) Invest the funds paid into the account; and

(ii) Pay earnings on the investments to the contractor to the extent the contractor is entitled to the retainage under subsection (d)(2)(ii) of this section.