

Article - Real Property

9-201.

(A) FOR THE PURPOSES OF THIS SUBTITLE, "MANAGING AGENT" MEANS AN EMPLOYEE OF A CONTRACTOR OR SUBCONTRACTOR WHO IS RESPONSIBLE FOR THE DIRECTION OVER OR CONTROL OF MONEY HELD IN TRUST BY THE CONTRACTOR OR SUBCONTRACTOR UNDER SUBSECTION (B) OF THIS SECTION.

(a) (B) (1) Any moneys paid under a contract by an owner to a contractor, or by the owner or contractor to a subcontractor for work done or materials furnished, or both, for or about a building by any subcontractor, shall be held in trust by the contractor or subcontractor, as trustee, for those subcontractors who did work or furnished materials, or both, for or about the building, for purposes of paying those subcontractors.

(2) AN OFFICER, DIRECTOR, OR MANAGING AGENT OF A CONTRACTOR OR SUBCONTRACTOR WHO HAS ACTUAL DIRECTION OVER OR CONTROL OF MONEY HELD IN TRUST BY A CONTRACTOR OR SUBCONTRACTOR UNDER PARAGRAPH (1) OF THIS SUBSECTION IS A TRUSTEE FOR THE PURPOSE OF PAYING THE MONEY TO THE SUBCONTRACTORS WHO ARE ENTITLED TO IT.

~~(b)~~ (C) (1) Nothing contained in this subtitle shall be construed as requiring moneys held in trust by a contractor or subcontractor under subsection (a) of this section to be placed in a separate account.

(2) If a contractor or subcontractor commingles moneys held in trust under this section with other moneys, the mere commingling of the moneys does not constitute a violation of this subtitle.

9-202.

Any officer, director, or [employee] MANAGING AGENT of any contractor or subcontractor, who KNOWINGLY, ~~with intent to defraud~~, retains or uses the moneys held in trust under § 9-201 of this subtitle, or any part thereof, for any purpose other than to pay those subcontractors for whom the moneys are held in trust, shall be personally liable to any person damaged by the action.

~~9-203.~~

~~The use by a contractor or subcontractor or any officer, director, or [employee] MANAGING AGENT of a contractor or subcontractor of any moneys held in trust under § 9-201 of this subtitle, for any other purpose than to pay those subcontractors who did work or furnished materials, or both, for or about the building, shall be prima facie evidence of intent to defraud in a civil action.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1995.

Approved May 18, 1995.