

Article – State Finance and Procurement

Section 17-110

to be Section ~~17-112~~ 17-111

Annotated Code of Maryland

(2001 Replacement Volume and 2002 Supplement)

BY adding to

Article – State Finance and Procurement

Section 17-110 ~~and 17-111~~

Annotated Code of Maryland

(2001 Replacement Volume and 2002 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 17-110 of Article – State Finance and Procurement of the Annotated Code of Maryland be renumbered to be Section(s) ~~17-112~~ 17-111.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

17-110.

(A) (1) IF A CONTRACTOR HAS FURNISHED 100% PAYMENT SECURITY AND 100% PERFORMANCE SECURITY IN ACCORDANCE WITH THIS SUBTITLE UNDER A CONTRACT FOR CONSTRUCTION AWARDED BY A PUBLIC BODY, THE PERCENTAGE SPECIFIED IN THE CONTRACT FOR RETAINAGE MAY NOT EXCEED ~~5%~~ 10% OF THE TOTAL AMOUNT FOR THE FIRST 50% OF THE CONTRACT.

(2) UNLESS A PUBLIC BODY DEMONSTRATES THE NEED TO RETAIN MORE THAN 5% TO PROTECT THE PUBLIC INTEREST, AFTER 50% OF THE CONTRACT IS COMPLETED, A PUBLIC BODY MAY RETAIN ONLY 5% OF THE TOTAL AMOUNT.

(3) IN ADDITION TO RETAINAGE, A PUBLIC BODY MAY WITHHOLD FROM PAYMENTS OTHERWISE DUE A CONTRACTOR ANY AMOUNT THAT THE PUBLIC BODY REASONABLY BELIEVES NECESSARY TO PROTECT THE PUBLIC BODY'S INTEREST.

(3) ~~RETAINAGE WITHHELD BY A PUBLIC BODY MAY BE DEPOSITED IN AN INTEREST BEARING ESCROW ACCOUNT IN ACCORDANCE WITH § 17-111 OF THIS SUBTITLE.~~

(4) ~~BEFORE ENTERING INTO A CONSTRUCTION CONTRACT UNDER THIS SUBSECTION, A PUBLIC BODY SHALL REQUIRE THAT THE CONTRACT INCLUDE A CLAUSE STATING THAT FINAL PAYMENT SHALL BE MADE TO A CONTRACTOR ONLY AFTER THE CONTRACTOR PROVIDES WRITTEN VERIFICATION, PROVIDED BY THE SUBCONTRACTORS UNDER THE CONTRACT, THAT THE SUBCONTRACTORS HAVE BEEN PAID.~~