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**By: Chairman, Commerce and Government Matters Committee (Departmental - General Services)**

Introduced and read first time: January 15, 1997

Assigned to: Commerce and Government Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 25, 1997

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## CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Procurement - Security on Construction Contracts**

3 FOR the purpose of allowing a ~~pledge of~~ real property located in the State to be accepted  
 4 as certain security on a construction contract in lieu of a certain bond or cash under  
 5 certain circumstances; capping the amount of an acceptable mortgage or deed of  
 6 trust based on the contractor's equity interest; requiring a mortgage or deed of trust  
 7 above a specified value to be recorded; and generally relating to security on  
 8 construction contracts under the ~~State Procurement Law~~ Maryland Little Miller  
 9 Act.

10 BY repealing and reenacting, with amendments,  
 11 Article - State Finance and Procurement  
 12 Section 17-104  
 13 Annotated Code of Maryland  
 14 (1995 Replacement Volume and 1996 Supplement)

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

17 **Article - State Finance and Procurement**

18 17-104.

19 (A) Payment security or performance security required under this subtitle shall be:

20 (1) a bond executed by a surety company authorized to do business in the  
 21 State;

22 (2) cash in an amount equivalent to a bond; or

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1                   (3) other security ~~{that}, INCLUDING A PLEDGE OF REAL PROPERTY~~  
2 ~~LOCATED IN THE STATE WHICH SHALL BECOME A LIEN, PROVIDED THAT THE~~  
3 ~~SECURITY~~ is satisfactory to the public body awarding the contract.

4                   (B) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,  
5 PERFORMANCE SECURITY MAY INCLUDE THE GRANTING OF A MORTGAGE OR  
6 DEED OF TRUST ON REAL PROPERTY LOCATED WITHIN THE STATE IF SUCH  
7 SECURITY IS SATISFACTORY TO THE PUBLIC BODY AWARDING THE CONTRACT.

8                   (2) THE FACE AMOUNT OF A MORTGAGE OR DEED OF TRUST ON REAL  
9 PROPERTY GRANTED AS SECURITY UNDER THIS SUBSECTION MAY NOT EXCEED 75%  
10 OF THE CONTRACTOR'S EQUITY INTEREST IN THE PROPERTY.

11                   (3) A MORTGAGE OR DEED OF TRUST ACCEPTED UNDER THIS  
12 SUBSECTION OF A VALUE GREATER THAN \$100,000 SHALL BE RECORDED BY AN  
13 OFFICIAL DESIGNATED BY THE PUBLIC BODY ACCEPTING THE MORTGAGE OR DEED  
14 OF TRUST IN THE LAND RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS  
15 SITUATED IN ACCORDANCE WITH § 3-103 OF THE REAL PROPERTY ARTICLE.

16                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 1997.