
By: **Delegates Benson, Patterson, Valderrama, D. Davis, and Muse**
Introduced and read first time: March 9, 1998
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **State Procurement - Payment of Subcontractors**

3 FOR the purpose of requiring certain general contractors under State construction
4 contracts to pay certain subcontractors within a certain period of time,
5 contingent upon certain requirements; authorizing the State to assess certain
6 penalties under certain circumstances; authorizing the Maryland State Board of
7 Contract Appeals to receive certain complaints; granting the Board jurisdiction
8 to hear and decide certain disputes after a certain time; requiring certain
9 parties to submit certain information to the Board concerning complaints at a
10 certain time; requiring the Board to render a decision on certain complaints
11 within a certain time; defining certain terms; and generally relating to State
12 construction contracts.

13 BY adding to
14 Article - State Finance and Procurement
15 Section 15-112
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1997 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - State Finance and Procurement
20 Section 15-201 and 15-211
21 Annotated Code of Maryland
22 (1995 Replacement Volume and 1997 Supplement)

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

25 **Article - State Finance and Procurement**

26 15-112.

27 (A) WITHIN 10 DAYS AFTER PAYMENT BY THE STATE TO A GENERAL
28 CONTRACTOR UNDER A CONSTRUCTION CONTRACT, THE GENERAL CONTRACTOR

1 SHALL PAY ANY SUBCONTRACTOR USED IN PERFORMANCE OF THE CONTRACT FOR
2 ALL WORK DONE BY THAT SUBCONTRACTOR UP THROUGH THE PERIOD COVERED BY
3 THE PAYMENT BY THE STATE, PROVIDED THAT THE WORK BY THE SUBCONTRACTOR
4 HAS BEEN DONE IN ACCORDANCE WITH THE GENERALLY ACCEPTED STANDARDS IN
5 THE INDUSTRY IN WHICH THE SUBCONTRACTOR IS ENGAGED.

6 (B) IF PAYMENT HAS NOT BEEN MADE BY THE GENERAL CONTRACTOR TO A
7 SUBCONTRACTOR IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, THE
8 STATE SHALL ASSESS A PENALTY AGAINST THE GENERAL CONTRACTOR NOT TO
9 EXCEED \$1,000 FOR EACH DAY THAT THE REQUIRED PAYMENT IS NOT MADE TO THAT
10 SUBCONTRACTOR.

11 (C) IN NO EVENT MAY THE TOTAL AMOUNT OF PENALTIES UNDER THIS
12 SECTION EXCEED THE TOTAL AMOUNT TO WHICH THE GENERAL CONTRACTOR
13 WOULD BE ENTITLED UNDER THE STATE CONSTRUCTION CONTRACT.

14 15-201.

15 (A) In this subtitle[,] THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) "Appeals Board" means the Maryland State Board of Contract Appeals.

18 (C) "GENERAL CONTRACTOR" MEANS A CONTRACTOR THAT HAS BEEN
19 AWARDED A CONSTRUCTION CONTRACT WITH THE STATE.

20 (D) "SUBCONTRACTOR" MEANS A PERSON THAT CONTRACTS WITH A GENERAL
21 CONTRACTOR TO PERFORM WORK PURSUANT TO A CONSTRUCTION CONTRACT WITH
22 THE STATE.

23 15-211.

24 (a) The Appeals Board shall have jurisdiction to hear and decide all appeals
25 arising from the final action of a unit:

26 (1) on a protest relating to the formation of a procurement contract; or

27 (2) except for a contract claim relating to a lease of real property, on a
28 contract claim concerning:

29 (i) breach;

30 (ii) performance;

31 (iii) modification; or

32 (iv) termination.

33 (B) (1) THE APPEALS BOARD SHALL HAVE JURISDICTION TO HEAR AND
34 DECIDE ALL CASES ARISING OUT OF DISPUTES UNDER § 15-112 OF THIS TITLE
35 BETWEEN A GENERAL CONTRACTOR AND A SUBCONTRACTOR.

1 (2) WITHIN 30 DAYS AFTER SUBMITTING NOTICE OF A CONTRACT CLAIM
2 TO THE DISPUTING PARTY, THE AGGRIEVED PARTY MAY FILE WITH THE MARYLAND
3 STATE BOARD OF CONTRACT APPEALS A WRITTEN COMPLAINT THAT STATES:

4 (I) THE AMOUNT OF THE CONTRACT CLAIM;

5 (II) THE FACTS ON WHICH THE CONTRACT CLAIM IS BASED; AND

6 (III) ALL RELEVANT DATA AND CORRESPONDENCE THAT MAY
7 SUBSTANTIATE THE CONTRACT CLAIM.

8 (3) WITHIN 30 DAYS AFTER RECEIVING A WRITTEN COMPLAINT THAT
9 COMPLIES WITH PARAGRAPH (2) OF THIS SUBSECTION FROM THE AGGRIEVED PARTY,
10 THE BOARD SHALL RENDER A DECISION ON THE FACTS OF THE CASE.

11 [(b)] (C) A decision of the Appeals Board is final, subject to any judicial review.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 1998.