

DOUGLAS F. GANSLER
Attorney General

Katherine Winfree
Chief Deputy Attorney General

John B. Howard, Jr.
Deputy Attorney General



ROBERT A. ZARNOCH
Assistant Attorney General
Counsel to the General Assembly

Sandra Benson Brantley
Bonnie A. Kirkland
Kathryn M. Rowe
Assistant Attorneys General

THE ATTORNEY GENERAL OF MARYLAND
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

May 7, 2007

The Honorable Martin J. O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21401-1991

Re: House Bill 1143

Dear Governor O'Malley:

We approve House Bill 1143 for legality and constitutionality. We write to address a potential ambiguity in the bill's effective date provision.

The bill repeals Tax-General Article §13-803, a provision enacted in 2003 to require any person doing business with a nonresident contractor to withhold three percent of the contract price on certain contracts and remit that amount to the Comptroller. Ch. 203, Acts of 2003. When enacted, §13-803 was made applicable to contracts entered into on or after July 1, 2003.

Section 2 of House Bill 1143 provides that "this Act shall take effect July 1, 2007, and shall be applicable to contracts entered into on or after July 1, 2007." It could be argued that the first clause is inconsistent with the second clause. If the repeal takes effect July 1, 2007, no subsequent withholding would thereafter be authorized. The second clause, however, specifies that the repeal is applicable only to contracts entered into on or after July 1, 2007. By necessary implication, the repeal is not intended to be effective for contracts entered into prior to July 1, 2007. A construction that the repeal is an absolute one effective July 1, 2007 and eliminates the withholding requirement for all contract payments thereafter is irreconcilable with the second clause of Section 2. The contrary interpretation, that the repeal does not apply to contracts entered into before July 1, 2007, enables the entirety of Section 2 to be given effect: the repeal takes effect July 1, 2007 (clause 1) and, as of that

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date, the withholding requirement no longer exists for contracts entered into thereafter—but continues to exist for contracts entered prior thereto. This interpretation is consistent with the rule of statutory construction that all parts of a statute are to be given effect and no part thereof is to be rendered superfluous. *Baltimore Development Corp. v. Carmel Realty Assoc.*, 395 Md. 299, 318 (2006).

Sincerely,

/s/

Douglas F. Gansler
Attorney General

DFG:GL:as

cc: Joseph Bryce
Secretary of State
Karl Aro
Jerry Langbaum