

SENATE BILL 140

P2

3lr1275

By: **Senator Conway**

Introduced and read first time: January 16, 2013

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Finance and Procurement – Retention of Percentage of Contract –**
3 **Security**

4 FOR the purpose of altering a certain percentage that may be retained by a public
5 body under a certain contract under certain circumstances; repealing an
6 authorization for a public body to retain a certain percentage of a certain
7 contract under certain circumstances; making stylistic changes; and generally
8 relating to the retention of a percentage of contracts as security.

9 BY repealing and reenacting, with amendments,
10 Article – State Finance and Procurement
11 Section 17–110(a) and (b)
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2012 Supplement)

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

16 **Article – State Finance and Procurement**

17 17–110.

18 (a) Subsections (b)(1)[, (2),] and [(3)] **(2)**, (c), and (d) of this section do not
19 apply to an entity that is required to comply with the provisions of § 13–225 of this
20 article.

21 (b) (1) If a contractor has furnished 100% payment security and 100%
22 performance security in accordance with this subtitle under a contract for construction
23 awarded by a public body, the percentage specified in the contract for retainage may
24 not exceed [10%] **5%** of the total amount [for the first 50%] of the contract.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) [Unless a public body demonstrates the need to retain more than
2 5% to protect the public interest, after 50% of the contract is completed, a public body
3 may retain only 5% of the total amount.

4 (3)] In addition to retainage, a public body may withhold from
5 payments otherwise due a contractor any amount that the public body reasonably
6 believes necessary to protect the public body's interest.

7 [(4) (3) Except as provided in paragraph [(5) (4) of this subsection,
8 within 120 days after satisfactory completion of a contract for construction, a public
9 body shall release any retainage due to the contractor.

10 [(5) (4) If there is a dispute or contract claim between the contractor
11 and the public body concerning the satisfactory completion of a contract for
12 construction, the public body shall release the retainage to the contractor within 120
13 days after the resolution of the dispute or contract claim.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2013.