

SENATE BILL 140

P2

3lr1275

By: ~~Senator Conway~~ Senators Conway and Benson

Introduced and read first time: January 16, 2013

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 12, 2013

CHAPTER _____

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; providing for the application of this Act;
8 making stylistic changes; and generally relating to the retention of a percentage
9 of contracts as security.

10 BY repealing and reenacting, with amendments,
11 Article – State Finance and Procurement
12 Section 17–110(a) and (b)
13 Annotated Code of Maryland
14 (2009 Replacement Volume and 2012 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 17–110.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

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

8 (2) [Unless a public body demonstrates the need to retain more than
 9 5% to protect the public interest, after 50% of the contract is completed, a public body
 10 may retain only 5% of the total amount.

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

14 [(4)] **(3)** Except as provided in paragraph [(5)] **(4)** of this subsection,
 15 within 120 days after satisfactory completion of a contract for construction, a public
 16 body shall release any retainage due to the contractor.

17 [(5)] **(4)** If there is a dispute or contract claim between the contractor
 18 and the public body concerning the satisfactory completion of a contract for
 19 construction, the public body shall release the retainage to the contractor within 120
 20 days after the resolution of the dispute or contract claim.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
 22 construed to apply only prospectively and may not be applied or interpreted to have
 23 any effect on or application to any construction contract awarded before the effective
 24 date of this Act.

25 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
 26 effect ~~October~~ July 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.