

## Chapter 23

(Senate Bill 140)

AN ACT concerning

### State Finance and Procurement – Retention of Percentage of Contract – Security

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

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

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

#### Article – State Finance and Procurement

17–110.

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

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

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

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

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

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

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

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

**Approved by the Governor, April 9, 2013.**