HOUSE BILL 1627

N1 8lr3199

By: Delegates Adams and W. Miller

Introduced and read first time: February 9, 2018

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2018

CHAPTER

1 AN ACT concerning

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Real Property - Construction Contracts - Retention Proceeds

- FOR the purpose of establishing that a certain remedy for the payment of an undisputed amount owed under a construction contract applies to certain retention proceeds; reducing a certain minimum contract amount for purposes of the applicability of certain provisions of law relating to retention proceeds; requiring certain retention proceeds to be paid within a certain period of time after a certain date of substantial completion issuance of a final certificate of payment; and generally relating to retention proceeds for construction contracts.
- 10 BY repealing and reenacting, with amendments,
- 11 Article Real Property
- 12 Section 9–303 and 9–304
- 13 Annotated Code of Maryland
- 14 (2015 Replacement Volume and 2017 Supplement)
- 15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 16 That the Laws of Maryland read as follows:

Article - Real Property

18 9-303.

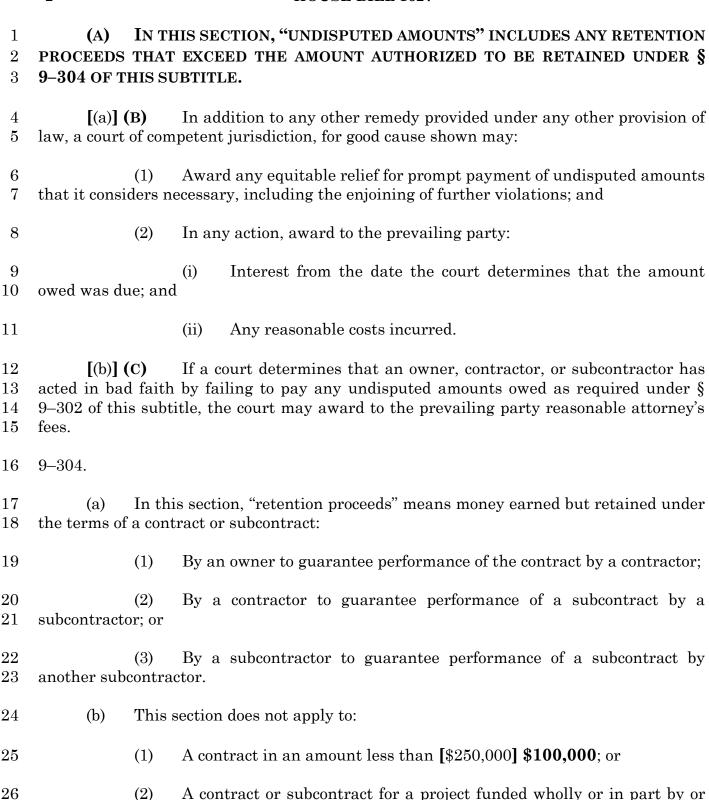
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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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



28 (c) Except as provided in this section:

through the Department of Housing and Community Development.

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- 1 (1) If a contractor has furnished 100% security to guarantee the 2 performance of a contract and 100% security to guarantee payment for labor and materials, 3 including leased equipment:
- 4 (i) The retention proceeds under the terms of a contract may not 5 exceed 5% of the contract price; and
- 6 (ii) The retention proceeds of any payment due under the terms of a contract from an owner to a contractor may not exceed 5% of the payment;
- 8 (2) The retention proceeds of any payment due under the terms of a 9 contract from a contractor to a subcontractor may not exceed the percentage of retention 10 proceeds from the owner to the contractor; and
- 11 (3) The retention proceeds of any payment due under the terms of a 12 contract from a subcontractor to another subcontractor may not exceed the percentage of 13 retention proceeds from the contractor to the subcontractor.
- 14 (d) This section may not be construed to prohibit the withholding of any amount 15 due:
- 16 (1) From the owner to the contractor if the owner reasonably determines 17 that the contractor's performance under the contract provides reasonable grounds for 18 withholding the additional amount;
- 19 (2) From the contractor to any subcontractor if the contractor reasonably 20 determines that the subcontractor's performance under the subcontract provides 21 reasonable grounds for withholding the additional amount; or
- 22 (3) From a subcontractor to another subcontractor if the subcontractor 23 determines that the other subcontractor's performance under the subcontract provides 24 reasonable grounds for withholding the additional amount.
- 25 (E) RETENTION PROCEEDS RETAINED UNDER THIS SECTION SHALL BE PAID
 26 WITHIN 99 30 DAYS AFTER THE DATE OF SUBSTANTIAL COMPLETION ISSUANCE OF A
 27 FINAL CERTIFICATE OF PAYMENT, AS DEFINED BY THE APPLICABLE CONTRACT OR
 28 SUBCONTRACT.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 30 October 1, 2018.