

HOUSE BILL 451

C2, P2
HB 1097/23 – ECM & HGO

5lr2431

By: **Delegates Lehman, Acevero, Amprey, Bagnall, Boaf, Charkoudian, Edelson, Fair, Foley, D. Jones, Kaufman, J. Long, Pruski, Smith, Toles, Valderrama, Vogel, and Wells**

Introduced and read first time: January 16, 2025

Assigned to: Economic Matters and Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State and Private Construction Contracts – Prompt Payment Requirements**

3 FOR the purpose of requiring a private construction contract to include a provision
4 requiring the owner to pay the contractor within a certain period of time or, if the
5 owner withholds all or part of an amount invoiced, to send a certain notification to
6 the contractor; establishing that amounts unpaid to a contractor accrue interest at a
7 certain rate; requiring a contract between a contractor and a subcontractor to
8 perform a portion of a private or State construction contract to include a provision
9 requiring the contractor to pay the subcontractor within a certain period of time or,
10 if the contractor withholds all or part of an amount invoiced, to send a certain
11 notification to the subcontractor; establishing that amounts unpaid to a
12 subcontractor accrue interest at a certain rate; and generally relating to prompt
13 payment on construction contracts.

14 BY repealing and reenacting, without amendments,
15 Article – Business Regulation
16 Section 17–601
17 Annotated Code of Maryland
18 (2024 Replacement Volume)

19 BY adding to
20 Article – Business Regulation
21 Section 17–604
22 Annotated Code of Maryland
23 (2024 Replacement Volume)

24 BY adding to
25 Article – State Finance and Procurement
26 Section 13–228

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2021 Replacement Volume and 2024 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – State Finance and Procurement
5 Section 15–103 and 15–104
6 Annotated Code of Maryland
7 (2021 Replacement Volume and 2024 Supplement)

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

10 **Article – Business Regulation**

11 17–601.

12 (a) In this subtitle the following words have the meanings indicated.

13 (b) “Construction license” means a license issued by the clerk to do construction
14 business.

15 (c) (1) “Do construction business” means to agree to:

16 (i) pave or curb a sidewalk, street, or other public or private
17 property;

18 (ii) excavate earth, rock, or other material for a foundation or other
19 purpose; or

20 (iii) do work on or in a building or other structure that requires the
21 use of a building material, including:

22 1. paint;

23 2. stone;

24 3. brick;

25 4. mortar;

26 5. wood;

27 6. cement;

28 7. structural iron;

29 8. structural steel;

- 1 9. sheet iron;
- 2 10. galvanized iron;
- 3 11. metallic piping;
- 4 12. tin;
- 5 13. lead;
- 6 14. electric wiring; or
- 7 15. any other metal.

8 (2) “Do construction business” does not include home improvement as
9 defined in § 8–101 of this article.

10 (d) “Nonresident construction license” means a construction license issued by the
11 clerk to a person who is incorporated or has its principal office in another state.

12 **17–604.**

13 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
14 **INDICATED.**

15 (2) **“CONSTRUCTION CONTRACT” MEANS A CONTRACT TO DO**
16 **CONSTRUCTION BUSINESS.**

17 (3) **“CONTRACTOR” MEANS THE HOLDER OF A CONSTRUCTION**
18 **LICENSE WHO IS PARTY TO A CONSTRUCTION CONTRACT.**

19 (4) **“OWNER” MEANS A PERSON OR AN ENTITY OTHER THAN A PUBLIC**
20 **BODY RESPONSIBLE FOR CONTRACTING.**

21 (5) **“SUBCONTRACTOR” MEANS A PERSON OTHER THAN A LABORER**
22 **OR SUPPLIER OF MATERIALS WHO MAKES AN ORAL OR WRITTEN AGREEMENT WITH:**

23 (I) **A CONTRACTOR TO PERFORM ALL OR PART OF A**
24 **CONSTRUCTION CONTRACT; OR**

25 (II) **ANOTHER SUBCONTRACTOR TO PERFORM ALL OR PART OF**
26 **A SUBCONTRACT TO A CONSTRUCTION CONTRACT.**

27 (B) (1) **A CONSTRUCTION CONTRACT SHALL INCLUDE A PROVISION THAT**

1 REQUIRES THE OWNER TO PAY THE CONTRACTOR WITHIN 60 DAYS OF THE RECEIPT
2 OF AN INVOICE FOLLOWING SATISFACTORY COMPLETION OF THE PORTION OF THE
3 WORK FOR WHICH THE CONTRACTOR HAS INVOICED.

4 (2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED
5 TO REQUIRE AN OWNER TO PAY AMOUNTS INVOICED THAT ARE SUBJECT TO
6 WITHHOLDING AS A RESULT OF THE CONTRACTOR'S NONCOMPLIANCE WITH THE
7 CONTRACT.

8 (3) IF AN OWNER WITHHOLDS ALL OR PART OF AN AMOUNT INVOICED
9 BY A CONTRACTOR UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OWNER SHALL
10 NOTIFY THE CONTRACTOR IN WRITING AND WITH REASONABLE SPECIFICITY WITHIN
11 60 DAYS OF THE RECEIPT OF THE INVOICE OF:

12 (I) THE OWNER'S INTENTION TO WITHHOLD ALL OR PART OF
13 THE PAYMENT; AND

14 (II) THE REASON FOR THE WITHHOLDING.

15 (4) (I) IF AN OWNER DOES NOT PAY A CONTRACTOR AS REQUIRED
16 UNDER PARAGRAPH (1) OF THIS SUBSECTION, INTEREST SHALL ACCRUE AT THE
17 RATE OF 9% A YEAR ON ANY AMOUNT THAT REMAINS UNPAID.

18 (II) INTEREST SHALL ACCRUE BEGINNING ON THE 60TH DAY
19 AFTER THE OWNER RECEIVES THE INVOICE.

20 (5) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO APPLY TO
21 OR PROHIBIT THE INCLUSION OF ANY RETAINAGE PROVISIONS IN A CONSTRUCTION
22 CONTRACT.

23 (C) (1) A CONTRACT BETWEEN A CONTRACTOR AND A SUBCONTRACTOR
24 TO PERFORM A PORTION OF A CONSTRUCTION CONTRACT SHALL INCLUDE A
25 PROVISION THAT REQUIRES THE CONTRACTOR TO PAY THE SUBCONTRACTOR
26 WITHIN:

27 (I) 60 DAYS AFTER THE RECEIPT OF AN INVOICE FOLLOWING
28 SATISFACTORY COMPLETION OF THE PORTION OF THE WORK FOR WHICH THE
29 SUBCONTRACTOR HAS INVOICED; OR

30 (II) 7 DAYS AFTER RECEIPT OF PAYMENT BY THE OWNER TO THE
31 CONTRACTOR FOR WORK PERFORMED BY THE SUBCONTRACTOR.

32 (2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED

1 TO REQUIRE A CONTRACTOR TO PAY AMOUNTS INVOICED THAT ARE SUBJECT TO
2 WITHHOLDING AS A RESULT OF THE SUBCONTRACTOR'S NONCOMPLIANCE WITH THE
3 CONTRACT.

4 (3) IF A CONTRACTOR WITHHOLDS ALL OR PART OF AN AMOUNT
5 INVOICED BY A SUBCONTRACTOR UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE
6 CONTRACTOR SHALL NOTIFY THE SUBCONTRACTOR IN WRITING AND WITH
7 REASONABLE SPECIFICITY WITHIN 60 DAYS AFTER THE RECEIPT OF THE INVOICE
8 OF:

9 (I) THE CONTRACTOR'S INTENTION TO WITHHOLD ALL OR PART
10 OF THE PAYMENT; AND

11 (II) THE REASON FOR THE WITHHOLDING.

12 (4) PAYMENT OF A CONTRACTOR BY AN OWNER MAY NOT BE A
13 REQUIRED CONDITION FOR PAYMENT OF A SUBCONTRACTOR UNDER PARAGRAPH
14 (1) OF THIS SUBSECTION UNLESS THE OWNER IS INSOLVENT OR HAS FILED FOR
15 BANKRUPTCY PROTECTION UNDER TITLE 11 OF THE UNITED STATES CODE.

16 (5) (I) IF A CONTRACTOR DOES NOT PAY A SUBCONTRACTOR AS
17 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, INTEREST SHALL ACCRUE
18 AT THE RATE OF 9% A YEAR ON ANY AMOUNT THAT REMAINS UNPAID.

19 (II) INTEREST SHALL ACCRUE BEGINNING ON THE 60TH DAY
20 AFTER THE CONTRACTOR RECEIVES THE INVOICE.

21 (6) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO APPLY TO
22 OR PROHIBIT THE INCLUSION OF ANY RETAINAGE PROVISIONS IN A
23 SUBCONTRACTOR CONTRACT.

24 Article – State Finance and Procurement

25 13-228.

26 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

28 (2) "CONSTRUCTION CONTRACT" MEANS A CONTRACT TO DO
29 CONSTRUCTION BUSINESS.

30 (3) "CONTRACTOR" MEANS THE HOLDER OF A CONSTRUCTION
31 LICENSE WHO IS PARTY TO A CONSTRUCTION CONTRACT.

1 **(4) “DO CONSTRUCTION BUSINESS” HAS THE MEANING STATED IN §**
2 **17-601 OF THE BUSINESS REGULATION ARTICLE.**

3 **(5) “SUBCONTRACTOR” MEANS A PERSON OTHER THAN A LABORER**
4 **OR SUPPLIER OF MATERIALS WHO MAKES AN ORAL OR WRITTEN AGREEMENT WITH:**

5 **(I) A CONTRACTOR TO PERFORM ALL OR PART OF A**
6 **CONSTRUCTION CONTRACT; OR**

7 **(II) ANOTHER SUBCONTRACTOR TO PERFORM ALL OR PART OF**
8 **A SUBCONTRACT TO A CONSTRUCTION CONTRACT.**

9 **(B) (1) A CONTRACT BETWEEN A CONTRACTOR AND A SUBCONTRACTOR**
10 **TO PERFORM A PORTION OF A CONSTRUCTION CONTRACT SHALL INCLUDE A**
11 **PROVISION THAT REQUIRES THE CONTRACTOR TO PAY THE SUBCONTRACTOR**
12 **WITHIN:**

13 **(I) 60 DAYS AFTER THE RECEIPT OF AN INVOICE FOLLOWING**
14 **SATISFACTORY COMPLETION OF THE PORTION OF THE WORK FOR WHICH THE**
15 **SUBCONTRACTOR HAS INVOICED; OR**

16 **(II) 7 DAYS AFTER RECEIPT OF PAYMENT BY THE OWNER TO THE**
17 **CONTRACTOR FOR WORK PERFORMED BY THE SUBCONTRACTOR.**

18 **(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED**
19 **TO REQUIRE A CONTRACTOR TO PAY AMOUNTS INVOICED THAT ARE SUBJECT TO**
20 **WITHHOLDING AS A RESULT OF THE SUBCONTRACTOR’S NONCOMPLIANCE WITH THE**
21 **CONTRACT.**

22 **(3) IF A CONTRACTOR WITHHOLDS ALL OR PART OF AN AMOUNT**
23 **INVOICED BY A SUBCONTRACTOR UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE**
24 **CONTRACTOR SHALL NOTIFY THE SUBCONTRACTOR IN WRITING AND WITH**
25 **REASONABLE SPECIFICITY WITHIN 60 DAYS AFTER THE RECEIPT OF THE INVOICE**
26 **OF:**

27 **(I) THE CONTRACTOR’S INTENTION TO WITHHOLD ALL OR PART**
28 **OF THE PAYMENT; AND**

29 **(II) THE REASON FOR THE WITHHOLDING.**

30 **(4) PAYMENT OF A CONTRACTOR BY A UNIT MAY NOT BE A REQUIRED**
31 **CONDITION FOR PAYMENT OF A SUBCONTRACTOR UNDER PARAGRAPH (1) OF THIS**

1 SUBSECTION.

2 (5) (I) IF A CONTRACTOR DOES NOT PAY A SUBCONTRACTOR AS
3 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, INTEREST SHALL ACCRUE
4 AT THE RATE OF 9% A YEAR ON ANY AMOUNT THAT REMAINS UNPAID.

5 (II) INTEREST SHALL ACCRUE BEGINNING ON THE 60TH DAY
6 AFTER THE CONTRACTOR RECEIVES THE INVOICE.

7 (6) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO APPLY TO
8 OR PROHIBIT THE INCLUSION OF ANY RETAINAGE PROVISIONS IN A
9 SUBCONTRACTOR CONTRACT.

10 15–103.

11 It is the policy of the State to make a payment under a procurement contract within
12 30 days:

13 (1) after the day on which the payment becomes due under the
14 procurement contract; or

15 (2) if later, after the day on which the unit receives an invoice.

16 15–104.

17 (a) Except as provided in § 15–105 of this subtitle, interest shall accrue at the
18 rate of 9% per annum on any amount that:

19 (1) is due and payable by law and under the written procurement contract;
20 and

21 (2) remains unpaid more than 45 days after a unit receives an invoice.

22 (b) Interest shall accrue beginning on the 31st day after:

23 (1) the day on which payment becomes due under a procurement contract;
24 or

25 (2) if later, the day on which the unit receives an invoice.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2025.