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Lt. Governor



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MARYLAND DEPARTMENT OF GENERAL SERVICES
OFFICE OF THE SECRETARY

BILL: House Bill 763 – State Procurement – Retainage Proceeds

COMMITTEE: House Health and Government Operations

DATE: March 3, 2020

POSITION: Letter of Information

House Bill 763 – State Procurement – Retainage Proceeds seeks to require undisputed retainage proceeds on State construction contracts retained by a State agency or contractor be paid within ninety (90) days of substantial completion of a project. The Department of General Services (DGS) provides the following letter in response to House Bill 763.

To ensure full completion of a project to State standards, the retention of funds on a State construction project is provided. At substantial completion a project site is operational, however there may still be punch-list items remaining for completion. Depending on the project, these punch-list items can vary from paint touch up to significant items such as landscaping. Should a project be substantially complete in the winter, landscaping must wait until the spring and that may not occur within 90 days. Punch-list items are typically not disputed, both the State and the contractor agree they need to be completed. House Bill 763 would require the State to release all payment for work that has yet to be completed and is undisputed within ninety (90) days of substantial completion.

If the State releases retainage, there is no incentive for the contractor to return to complete the undisputed remaining work. This may result in the State having to bring in another contractor to complete the unfinished work and pursuing a claim against the first contractor in order to recover the expenses. DGS has discretion to reduce retainage and regularly utilizes this action. The agency also maintains a high level of communication with contractors to ensure the work is complete and the contractors are paid timely.

For additional information, contact Ellen Robertson at 410-260-2908.

