

HB 1166 - State Finance and Procurement - Retention Proceeds

Position: Letter of Information

Committee: Health and Government Operations

Date: March 10, 2025

From: John R. Woolums, Esq.

The Maryland Department of General Services (DGS) is providing this Letter of Information to explain the operational and fiscal effects of this proposed legislation on the Department.

HB 1166 would require undisputed retention proceeds on State construction contracts to be paid within 90 days after the substantial completion of a project. DGS acts as the State's construction manager for a variety of State agencies, and each of these agencies have different operational needs that affect the construction timeline. DGS utilizes the retention of funds on a State construction contract to provide the State with a means to ensure full completion of the project to State standards and contract specifications.

At the time of substantial completion, a project site is operational, however there are specific items remaining for final completion. Depending on the project these items can vary from paint touch-up to more significant items such as landscaping. For example, if the project was substantially completed in the winter, but the seeding, planting, and landscaping must wait until the weather breaks, this work becomes a punch-list item to be completed at a future date, and that may not occur within 90 days of substantial completion.

The purpose of retainage is to provide an incentive for the contractor to complete all work for which they have been contracted. The law provided that the retainage amount may not exceed 5% of the total contract amount. DGS has the discretion to reduce retainage and regularly utilizes this discretion. DGS maintains a high level of communication with our contractors and the respective State agencies to ensure that work is completed and the contractors are paid in an appropriate and timely manner.

Again, DGS is providing this testimony for informational purposes, and the Department looks forward to being of further assistance as the Committee considers this bill.