

1 AN ACT relating to real property.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 371.160 is amended to read as follows:

- 4 (1) If, in any contract in the amount of five hundred thousand dollars (\$500,000) or
5 more involving the improvement of real estate, a certain amount or percentage of
6 the contract is held back by the owner, that retained amount shall be deposited in a
7 separate escrow account with a bank or trust company authorized to do business in
8 the Commonwealth of Kentucky. **Compliance with this subsection shall be**
9 **mandatory and shall not be waived by contract.**
- 10 (2) As of the time of the deposit of the retained funds, they shall become the sole and
11 separate property of the contractor to whom they are owed.
- 12 (3) The escrow agent shall promptly invest all escrowed principal in obligations
13 selected by the escrow agent in its discretion.
- 14 (4) Upon satisfactory completion of the contract, to be evidenced by a written release
15 by the owner, all funds accumulated in the escrow account, together with any
16 interest thereon, shall be paid immediately to the contractor to whom it is owed.
- 17 (5) The escrow agent shall be compensated for its services in an amount agreed to by
18 the owner, contractor, and escrow agent. The compensation shall be a commercially
19 reasonable fee commensurate with fees being charged for handling of escrow
20 accounts of similar size and duration. The compensation shall be paid from the
21 escrow account.
- 22 (6) In the event the owner fails or refuses to execute the release provided for in
23 subsection (4) of this section, then the contractor shall have a cause of action
24 against the owner in a court of proper jurisdiction.
- 25 (7) This section shall not apply to contracts with the Commonwealth, any county,
26 charter county, urban-county government, or municipality, or any other political
27 subdivision, agency, or instrumentality of the Commonwealth, or school boards.