

# SENATE BILL 140

P2

3lr1275

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By: ~~Senator Conway~~ Senators Conway and Benson  
Introduced and read first time: January 16, 2013  
Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: February 12, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Finance and Procurement – Retention of Percentage of Contract –**  
3 **Security**

4 FOR the purpose of altering a certain percentage that may be retained by a public  
5 body under a certain contract under certain circumstances; repealing an  
6 authorization for a public body to retain a certain percentage of a certain  
7 contract under certain circumstances; providing for the application of this Act;  
8 making stylistic changes; and generally relating to the retention of a percentage  
9 of contracts as security.

10 BY repealing and reenacting, with amendments,  
11 Article – State Finance and Procurement  
12 Section 17–110(a) and (b)  
13 Annotated Code of Maryland  
14 (2009 Replacement Volume and 2012 Supplement)

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

17 **Article – State Finance and Procurement**

18 17–110.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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



1 (a) Subsections (b)(1)[, (2),] and [(3)] **(2)**, (c), and (d) of this section do not  
 2 apply to an entity that is required to comply with the provisions of § 13–225 of this  
 3 article.

4 (b) (1) If a contractor has furnished 100% payment security and 100%  
 5 performance security in accordance with this subtitle under a contract for construction  
 6 awarded by a public body, the percentage specified in the contract for retainage may  
 7 not exceed [10%] **5%** of the total amount [for the first 50%] of the contract.

8 (2) [Unless a public body demonstrates the need to retain more than  
 9 5% to protect the public interest, after 50% of the contract is completed, a public body  
 10 may retain only 5% of the total amount.

11 [(3)] In addition to retainage, a public body may withhold from  
 12 payments otherwise due a contractor any amount that the public body reasonably  
 13 believes necessary to protect the public body's interest.

14 [(4)] **(3)** Except as provided in paragraph [(5)] **(4)** of this subsection,  
 15 within 120 days after satisfactory completion of a contract for construction, a public  
 16 body shall release any retainage due to the contractor.

17 [(5)] **(4)** If there is a dispute or contract claim between the contractor  
 18 and the public body concerning the satisfactory completion of a contract for  
 19 construction, the public body shall release the retainage to the contractor within 120  
 20 days after the resolution of the dispute or contract claim.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
 22 construed to apply only prospectively and may not be applied or interpreted to have  
 23 any effect on or application to any construction contract awarded before the effective  
 24 date of this Act.

25 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
 26 effect ~~October~~ July 1, 2013.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.