

ASSEMBLY, No. 3128

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

SYNOPSIS

Concerns prompt payment of construction contracts.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the payment of construction contracts and
2 supplementing chapter 44 of Title 2A of the New Jersey Statutes.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. All money paid by an owner to the prime contractor, all
8 money paid by the prime contractor to the subcontractor, and all
9 money paid by the subcontractor to the subsubcontractor, pursuant
10 to the provisions of any contract for the improvement of real
11 property shall constitute a trust fund in the hands of recipient. The
12 recipient of the money held in trust pursuant to this section shall
13 distribute the amount or amounts, as may be the case, as is due to
14 subcontractors and material suppliers pursuant to the provisions of
15 the contract in a timely manner, and money held in trust pursuant to
16 this section shall not be appropriated for any other purpose. Nothing
17 in this section shall be construed as requiring the payment of any
18 amount that is being contested consistent with the provisions of
19 section 2 of P.L.1991, c.133 (C.2A:30A-2), including, but not
20 limited to, any amount that is being contested through an alternative
21 dispute resolution proceeding, which proceeding includes, but is not
22 limited to, a mediation or arbitration. Nothing in this section shall
23 be construed as creating any claim or cause of action for the
24 recovery of payments due under a contract for the improvement of
25 real property, provided that all money held in trust has been
26 distributed in accordance with the requirements of this section. A
27 contract for the improvement of real property shall not contain any
28 provision allowing any party to the contract to deviate from the
29 imposition of a trust fund as provided in this subsection, and any
30 provision of the contract to that effect shall be void and
31 unenforceable.

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33 2. This act shall take effect immediately.

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STATEMENT

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38 This bill requires, with regard to a contract for the improvement
39 of real property, that all money paid by an owner to a prime
40 contractor, by a prime contractor to a subcontractor, or by a
41 subcontractor to a subsubcontractor, constitutes a trust fund in the
42 hands of the recipient. The recipient of money held in trust
43 pursuant to this bill must distribute amounts as may be due
44 subcontractors and material suppliers in accordance with the
45 contract, and may not be appropriated for any other purpose.

46 The bill provides that nothing contained therein is to be
47 construed as requiring the payment of any amount that is being
48 contested consistent with the provisions of section 2 of P.L.1991,

1 c.133 (C.2A:30A-2), including, but not limited to, any amount that
2 is being contested through an alternative dispute resolution
3 proceeding.

4 Finally, the bill prohibits any contract for the improvement of
5 real property to include a provision allowing any party to the
6 contract to deviate from the imposition of a trust fund as required
7 by the bill.