
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1227 Session of
2011

INTRODUCED BY TARTAGLIONE, FONTANA, SCHWANK AND HUGHES,
OCTOBER 20, 2011

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
OCTOBER 20, 2011

AN ACT

1 Providing for commingling of funds held in trust by contractors.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Contractor
6 Commingling of Funds Held in Trust Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Home improvement." Any contract for improvements to a
12 residential property as defined as a home improvement within the
13 act of October 17, 2008 (P.L.1645, No.132), known as the Home
14 Improvement Consumer Protection Act.

15 "Managing agent." An employee of a contractor who is
16 responsible for the direction or control of funds held in trust
17 by the contractor under section 3.

1 "Residential property." Property on which there is or will
2 be constructed a residential building not more than three
3 stories in height, not including any basement level, regardless
4 of whether any portion of that basement is at grade level, or
5 which is zoned or otherwise approved for residential development
6 on which there is or will be constructed a residential building
7 not more than three stories in height, not including any
8 basement level, regardless of whether any portion of that
9 basement is at grade level, planned residential development or
10 agricultural use, or for which a residential subdivision or land
11 development plan or planned residential development plan has
12 received preliminary, tentative or final approval on which there
13 is or will be constructed a residential building not more than
14 three stories in height, not including any basement level,
15 regardless of whether any portion of that basement is at grade
16 level, pursuant to the act of July 31, 1968 (P.L.805, No.247),
17 known as the Pennsylvania Municipalities Planning Code.

18 Section 3. Funds to be held in trust.

19 (a) Paid under contract.--Funds paid under a contract by an
20 owner to a contractor for work done or materials furnished or
21 both for or about a building by a subcontractor shall be held in
22 trust by the contractor as trustee for the subcontractors who
23 did work or furnished materials or both for or about the
24 building. The funds held in trust under this subsection shall be
25 for the purposes of paying subcontractors who did work or
26 furnished materials or both for or about the building.

27 (b) Trustee.--An officer, director or managing agent of a
28 contractor who has direction over or control of funds held in
29 trust by a contractor under subsection (a) is a trustee for the
30 purpose of paying the funds to the subcontractors who are

1 entitled to the funds.

2 Section 4. Commingling.

3 (a) Commingling.--If a contractor commingles funds held in
4 trust under section 3 with other funds, the mere commingling
5 does not constitute a violation of civil or criminal law.

6 (b) Separate account.--Nothing contained in this act shall
7 be construed as requiring funds held in trust by a contractor
8 under section 3 to be placed in a separate account.

9 Section 5. Liability for retention or use of funds held in
10 trust.

11 An officer, director or managing agent of a contractor who
12 knowingly retains or uses funds held in trust under this act for
13 a purpose other than paying the contractors for whom the funds
14 are held in trust shall be personally liable to a person damaged
15 by his action.

16 Section 6. Exemption.

17 Section 3 shall not apply to any contract involving
18 residential property or a home improvement contract.

19 Section 20. Effective date.

20 This act shall take effect in 60 days.