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Has Someone Spent Your Money?

by David B. Applefeld

In a typical construction project, subcontractors and suppliers submit their bills to the general contractor who thereafter incorporates these bills into its billings to the project owner. When things run smoothly, the project owner then pays the general contractor, who in turn pays its subcontractors and suppliers. What happens, however, when the general contractor or subcontractor wrongfully withholds money paid by an owner and uses those funds for another purpose? The Maryland Construction Trust Statute, which is contained in Title 9 of the Maryland Real Property Code, provides a strong remedy for subcontractors and suppliers who are damaged in this fashion.

The Maryland Construction Trust Statute was enacted to protect subcontractors and suppliers from dishonest practices by general contractors and other subcontractors for whom they might work. The statute creates a trust relationship between a contractor that has been paid by the owner, and a subcontractor or supplier for whose work the owner has paid. The Statute requires the directors, officers, and employees of the contractor who have the responsibility for the control of funds paid by an owner for work or materials supplied by a subcontractor or supplier to hold those funds in trust for the subcontractor or supplier. Significantly, the Statute creates personal liability on the part of officers, directors, or employees of contractors who fraudulently retain or use trust monies for any purpose other than to pay the subcontractor or supplier for whom such funds are intended. 🏠

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