

371.160 Deposit in escrow of amount held back by owner in contract involving improvement of real estate.

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

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 340, sec. 2, effective July 15, 1998. -- Created 1990 Ky. Acts ch. 506, sec. 1, effective July 13, 1990.