

CHAPTER 180

AN ACT concerning certain payments to roadway contractors and supplementing P.L.1948, c.454 (C.27:23-1 et seq.).

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

C.27:23-6.3 Partial payments to roadway contractors.

1. Contracts entered into by the New Jersey Turnpike Authority for roadway construction and maintenance shall provide for partial payments at least once each month or from time to time as the work progresses on work of construction or maintenance. Two per centum of the amount due on partial payments of the total contract price shall be withheld from the contractor pending completion of the contract, but upon substantial completion of the contract, as defined by rules or regulations of the authority, 1% shall be withheld. At any time during the performance of the work, if work is not progressing, as defined by the "New Jersey Turnpike Authority Standard Specifications," the authority may, in its discretion, increase the withholding to 4% of the payment due. No retainage shall be withheld on service contracts including, but not limited to, mowing, sweeping, tree trimming and similar contracts. Any partial payments made after substantial completion of the contract shall be made only upon certification by the general contractor to the authority that all subcontractors have been paid in the same proportion that he has been paid; however, should the amount owed by a general contractor to a subcontractor be in dispute the authority shall be empowered to advance to the general contractor the amount in dispute after a determination by the authority.

Contracts may also provide for partial payments at least once in each month or from time to time as the work progresses on all materials placed along or upon the site, or stored at locations approved by the authority, which are suitable for the use and execution of the contract, provided the contractor furnishes releases of liens for all materials furnished at the time each estimate of work is submitted for payment, but such partial payments shall not exceed the cost of material.

When the contract provides that a portion of the work may be deferred with the approval of the authority, the sum withheld from the contractor may not be less than 25% of the value of the work.

Any money heretofore or hereafter withheld from contract payments as provided for herein shall be paid by the authority to any contractor entitled thereto who shall deposit under terms of an escrow agreement, in a banking institution located in this State and approved by the authority, negotiable bonds, acceptable to the authority, issued by the State or any political subdivision thereof, the bonds having value equal to the amount of money to be paid to any such contractor. For purposes of this section, value shall mean par value or market value, whichever is lower.

C.27:23-6.4 Existing covenants, agreements, contracts unaffected.

2. The provisions of this act shall not modify, limit, or restrict in any manner the obligations and powers of the New Jersey Turnpike Authority to comply with, carry out, and perform each and every covenant, agreement, or contract heretofore made or entered into by the authority with respect to the authority's bonds or for the benefit, protection, or security of the bondholders.

3. This act shall take effect on January 1, 2008.

Approved September 27, 2007.