

STATE TRANSPORTATION COMMISSION (EXCERPT)
Act 286 of 1964

247.807a Definitions; partial payments to contractor; retaining portion of total amount earned; specifications; escrow account; escrow agent; escrow agreement; terms.

Sec. 7a. (1) As used in this section:

(a) "Completion" means the date when the construction, improvement, or maintenance of a bridge, highway, or other transportation facility is accepted in accordance with the contract documents, so that the bridge, highway, or other transportation facility may be used for its intended purpose.

(b) "Construction contract" means an agreement between a contractor and the department for the construction, improvement, or maintenance of a bridge, highway, or other transportation facility.

(c) "Contractor" means an individual; sole proprietorship; partnership; corporation; joint venture; or other legal entity, other than the state, or an agency or department of the state, who is a party to a construction contract.

(d) "Project" means the specific section of the highway construction to be performed under the construction contract.

(2) A construction contract may provide for partial payments to be made periodically to a contractor. The department may establish specifications regarding the retention of a portion of the total amount earned under the construction contract.

(3) At the request of the contractor and upon the approval of the department, the portion retained pursuant to the specifications established under subsection (2) shall be placed in an escrow account pursuant to this section.

(4) An escrow agent may be selected by the contractor. For purposes of this section, an escrow agent shall be a state or national bank, a state or federally chartered savings and loan association, or a state or federally chartered credit union whose principal place of business is located in this state.

(5) An escrow agreement shall be entered into between the contracting parties and the escrow agent. The escrow agreement shall contain all of the following terms:

(a) That the escrow agent shall promptly invest all of the escrowed funds.

(b) That the escrow agent shall hold the escrowed funds until receipt of notice from the department. Upon receipt of a notice of release from the department, the escrow agent shall promptly remit the designated portion of escrowed funds to the contractor involved in the contract. Upon receipt of a notice of overpayment or default of the contract, the escrow agent shall promptly remit the designated portion of escrowed funds to the department.

(c) That the escrow agent is responsible for all investments and money as a result of the deposit of the amount until released from responsibility pursuant to the escrow agreement.

(d) That the contractor shall pay all expenses regarding the deposit, investment, and administration of the retained amount and all other charges made by the escrow agent.

(e) Any other provision agreed to by the contracting parties and the escrow agent necessary or proper for purposes of this section.

History: Add. 1980, Act 447, Eff. Mar. 31, 1981;—Am. 1981, Act 122, Imd. Eff. July 23, 1981.