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# SENATE BILL NO. 272

Offered January 10, 2018

Prefiled January 5, 2018

*A BILL to amend the Code of Virginia by adding in Title 55 a chapter numbered 28.1, consisting of sections numbered 55-527.1 and 55-527.2, relating to Virginia Construction Trusts Law.*

Patron—Petersen

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 55 a chapter numbered 28.1, consisting of sections numbered 55-527.1 and 55-527.2, as follows:**

*CHAPTER 28.1.*

*CONSTRUCTION TRUST ACT.*

***§ 55-527.1. Definitions.***

*For the purposes of this chapter, unless the context requires a different meaning:*

*"Contractor" means any person that for a fixed price, commission, fee, or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing, managing, or superintending, in whole or in part, the construction, removal, repair, or improvement of any building or structure permanently annexed to real property owned, controlled, or leased by him or another person or any other improvements to such real property.*

*"Managing agent" means an employee of a contractor or subcontractor who is responsible for the direction over or control of money held in trust by the contractor or subcontractor.*

*"Subcontractor" means any entity that has a contract to supply labor or materials to the contractor to whom the contract was awarded or to any subcontractor in the performance of the work provided for in such contract.*

***§ 55-527.2. Moneys to be held in trust; commingling.***

*A. Any moneys paid under a contract by an owner to a contractor, or by the owner or contractor to a subcontractor for work done or materials furnished for a building or construction project by any subcontractor, shall be strictly accounted for and held in trust by the contractor or subcontractor, as trustee, for those subcontractors who did work or furnished materials for the building or construction project, for purposes of paying those subcontractors.*

*B. An officer, director, or managing agent of a contractor or subcontractor who has direction over or control of money held in trust by a contractor or subcontractor under subsection A is a trustee for the purpose of paying the money to the subcontractors who are entitled to it.*

*C. Nothing contained in this chapter shall be construed to require moneys held in trust by a contractor or subcontractor under subsection B to be placed in a separate account. If a contractor or subcontractor commingles moneys held in trust under this section with other moneys, the mere commingling of the moneys shall not constitute a violation of this chapter.*

*D. Any officer, director, or managing agent of any contractor or subcontractor who knowingly retains or uses the moneys held in trust hereunder for any purpose other than to pay those subcontractors for whom the moneys are held in trust shall be personally liable to any person damaged by the action and for reasonable attorney fees incurred by the owner.*