

2016 -- H 8185

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LC005841
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- PROMPT PAYMENT TO STATE CONTRACTORS

Introduced By: Representatives Ackerman, Shekarchi, Serpa, Craven, and Ruggiero

Date Introduced: May 06, 2016

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-11.1-2 and 42-11.1-3 of the General Laws in Chapter 42-11.1
2 entitled "Prompt Payment by Department of Administration" are hereby amended to read as
3 follows:

4 **42-11.1-2. Definitions.** -- As used in this chapter, the following terms shall have the
5 following meanings unless otherwise specified:

6 (1) "Contract" means an enforceable agreement entered into by a contractor and a state
7 agency.

8 (2) "Contractor" means any person, partnership, firm, corporation, or association:

9 (i) Selling materials, equipment, or supplies or leasing property or equipment to a state
10 agency:

11 (ii) Constructing, reconstructing, rehabilitating, or repairing buildings or highways for,
12 or on behalf of, a state agency; or

13 (iii) Rendering or providing services pursuant to a contract with a state agency,
14 including, without limitation, services which help people in need.

15 (3) "Designated payment office" means the office designated by the state agency to
16 which a proper invoice is to be submitted by a contractor.

17 (4) "Payment date" means the date on which a payment is due according to a contract.

18 (5) "Proper invoice" means a written request for a contract payment that is submitted by

1 a contractor setting forth the description, price, and quantity of goods, property or services
2 delivered or rendered, in such form and supported by such other substantiating documentation as
3 the state controller or individual state agency may reasonably require. In the case of state highway
4 and bridge construction contracts, periodic payment estimates prepared by the department of
5 transportation shall be considered proper invoices for purposes of this chapter and such estimates
6 shall be prepared monthly or more often and shall include the total amount of work done from the
7 date of the prior estimate.

8 (6) "Receipt of an invoice" means the date on which a proper invoice is actually received
9 in the designated payment office or the date on which the state agency receives the purchased
10 goods, property, or services covered by the proper invoice, whichever is later.

11 (7) "Required payment date" means the date by which a contract payment must be made
12 in order for the state government not to become liable for interest payments, pursuant to
13 subsections (b) and (g) of § 42-11.1-5.

14 (8) "Set-off" means the reduction by the controller of a payment due to a contractor by
15 an amount equal to the amount of an unpaid legally enforceable debt owed by the contractor to
16 the state or any amount which the state is entitled to withhold under the terms of the contract, or
17 any amount owed by the contractor to the state by way of a statutory obligation or enforceable
18 lien, of which the contractor had previous knowledge or notice.

19 (9) "State agency" means any department, board, bureau, commission, division, office,
20 council, institution, authority or committee in the executive, legislative, or judicial branches of
21 state government; including the University of Rhode Island and all other quasi-public bodies
22 created by state law whose purpose and function are directly related to the health, safety, and
23 welfare of the general populace of the state, including the Rhode Island lottery.

24 (10) "State funds" means funds held by the general treasurer in the general fund of the
25 state.

26 (11) "Subcontractor" means any person, partnership, firm, corporation, or association that
27 has a direct contract with a contractor, governed by this chapter, to provide services and materials
28 pursuant to a construction contract with a state agency.

29 ~~(11)~~(12) "Nonprofit provider" means any not for profit firm, partnership, or corporation
30 which provides services to people in need pursuant to a contract with a state agency. A nonprofit
31 provider is a contractor for purposes of this chapter. A nonprofit provider shall not be considered
32 a public benefit corporation for the purposes of § 42-11.1-14.

33 **42-11.1-3. Time period for payment. --** (a) All bills shall be paid within thirty (30)
34 working days of receipt of a proper invoice or other contractual dates for periodic payments,

1 except when a contractor has failed to submit a bill in accordance with contractually imposed
2 time frames.

3 (b) Each contractor shall make payment to subcontractors within ten (10) days of receipt
4 of payment by the state; provided, however, that the contractor may setoff a payment due to a
5 subcontractor by an amount equal to the amount of an unpaid legally enforceable debt owed by
6 the subcontractor to the contractor or any amount which the contractor is entitled to withhold
7 under the terms of the contract entered into by the contractor and subcontractor, or any amount
8 owed by the subcontractor to the contractor by way of a statutory obligation, or enforceable lien,
9 of which the contractor or subcontractor had previous knowledge or notice, or has reason to
10 believe exists.

11 (c) This section shall not apply to contractors or subcontractors performing work pursuant
12 to a contract awarded by the department of transportation unless the subcontractor provides a
13 payment and performance bond in an amount equal to the contract between the contractor and
14 subcontractor.

15 (d) If a contractor fails to make timely payments to a subcontractor as required by §42-
16 11.1-3(b) then it must pay an additional monthly one percent (1%) interest payment of the
17 contractual amount owed to the subcontractor until its debt is paid in full.

18 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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CONTRACTORS

- 1 This act would require state contractors, that are paid by the state, to pay monthly interest
- 2 of the contractual amount owed to its subcontractors that it had not timely paid.
- 3 This act would take effect upon passage.

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