



Councilmember Vincent Bernard Orange, Sr.

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

At-large Councilmember, Vincent Bernard Orange, Sr. introduced the following bill, which was referred to the Committee on _____.

To establish new private contractor and subcontractor prompt payment laws, to establish time requirements for owners to pay contractors when the contract does not provide for specific dates and times of payment, to establish time requirements for owners to pay contractors when the contract does provide for specific dates and times of payment, to impose an interest penalty and assess reasonable attorney fees on an owner for failure to make prompt payments to a contractor, to establish time requirements for contractors to pay subcontractors, to impose an interest penalty and assess reasonable attorney fees on a contractor for failure to make prompt payments to a subcontractor, to require the Mayor to select an agency director to monitor and enforce the provisions of this act, and to require the agency director to develop a plan that includes recommendations for payment terms based on established industry standards.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this bill may be cited as the "Private Contractor and Subcontractor Prompt Payment Act of 2013."

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Contract" means an agreement of any kind of nature, express or implied, for doing work or furnishing materials, or both.

(2) "Contractor" means a person, entity or business that has a contract with an owner.

(3) "Owner" means an owner of the property or a tenant, provided the tenant enters into contract with a contractor.

1 (4) "Subcontractor" means:

2 (A) a person, entity or business that has a contract with a contractor; or

3 (B) a person, entity or business that has a contract with a subcontractor; or

4 (C) a person, entity or business that performs work on a construction site for a
5 contractor or another subcontractor or that fabricates materials off-site, from plans and
6 specifications unique to the project, for installation on the construction site.

7 (5) "Undisputed Amount" means an amount owed on a contract or a subcontract for
8 which there is no good faith dispute, including any retainage withheld.

9 Sec. 3. Prompt Payments to Contractors.

10 (a) If a contract is between an owner and contractor and the contract does not provide for
11 specific dates and times of payment, the owner shall:

12 (1) Except as provided in subsections (b) and (c), pay to the contractor undisputed
13 amounts owed under the terms of the written contract within the earlier of:

14 (A) 30 days after the day on which the occupancy permit is granted; or

15 (B) 30 days after the day on which the owner or the owner's agent takes
16 possession; or

17 (C) 30 days after an owner receives a contractor's payment request.

18 (b) If a construction contract between an owner and contractor does not provide for
19 specific dates and times of payment, the owner shall:

20 (1) Pay to the contractor undisputed amounts owed under the terms of the written contract
21 within the earlier of:

22 (A) 15 days after the day on which the occupancy permit is granted; or

1 (B) 15 days after the day on which the owner or the owner's agent takes
2 possession; or

3 (C) 15 days after an owner receives a contractor's payment request.

4 (c) If a food service contract between an owner and contractor does not provide for
5 specific dates and times of payment, the owner shall:

6 (1) Pay to the contractor undisputed amounts owed under the terms of the written contract
7 within the earlier of:

8 (A) 15 days after the day on which the owner or the owner's agent takes
9 possession; or

10 (B) 15 days after an owner receives a contractor's payment request.

11 (d) If a contract provides for specific dates or times of payment, the owner shall pay to
12 the contractor undisputed amounts owed within 7 days after the date or time specified in the
13 contract.

14 Sec. 4. Failure to Make Prompt Payments to a Contractor.

15 (a) If an owner fails to make prompt payments to a contractor, then the owner must:

16 (1) Pay interest of 1.5 percent per month or any part of a month to the contractor on any
17 undisputed amount not paid on time to the contractor; and

18 (2) If a contractor prevails in a civil action to collect interest penalties from an owner, the
19 contractor must be awarded its costs and disbursements, including reasonable attorney's fees,
20 incurred in bringing the action.

21 Sec. 5. Prompt Payments to Subcontractors.

22 (a) If a contract is between a contractor and subcontractor, the contractor shall:

1 (1) Pay undisputed amounts owed to its subcontractor within 7 days after receipt by the
2 contractor or subcontractor of each payment received for its subcontractors' work or materials.

3 Sec. 6. Failure to Make Prompt Payments to a Subcontractor.

4 (a) If a contractor fails to make prompt payments to a subcontractor, or a first tier
5 subcontractor fails to make prompt payments to a second tier subcontractor, than the contractor
6 or subcontractor must:

7 (1) Pay interest of 1.5 percent per month or any part of a month to the subcontractor on
8 any undisputed amount not paid on time to the subcontractor; and

9 (2) If the subcontractor prevails in a civil action to collect interest penalties from a
10 contractor or first tier subcontractor, the subcontractor must be awarded its costs and
11 disbursements, including reasonable attorney's fees, incurred in bringing the action.

12 Sec. 7. Responsibilities of the Mayor.

13 (a) Within 90 days after the effective date of this act, the Mayor shall determine whether
14 the Director of the Office of Deputy Mayor for Planning and Economic Development, the
15 Director of the Office of Contracting and Procurement, or the Director of the Department of
16 Small and Local Business Development shall monitor and enforce the provisions under this act.

17 (b) Pursuant to subsection (a), whomever the Mayor shall select has 180 days after the
18 effective date of this act to develop a plan that includes recommendations for payment terms
19 based on established industry standards.

20 Sec. 8. Inclusion in the Budget and Financial Plan.

21 This act shall be subject to the inclusion of its fiscal effect in an approved Budget and
22 Financial Plan.

23 Sec. 9. Fiscal Impact Statement.

1 The Council adopts the fiscal impact statement in the committee report as the fiscal
2 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
3 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

4 Sec.10. Effective Date.

5 This act shall take effect following approval by the Mayor (or in the event of veto by the
6 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
7 provided in section 602(c)(1) if the District of Columbia Home Rule Act, approved December
8 24, 1973 (87 Stat, 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
9 Columbia Register.