

2019 -- H 5877

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LC002209  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- PROMPT PAYMENT BY  
DEPARTMENT OF ADMINISTRATION--SUBCONTRACTOR PAYMENTS

Introduced By: Representatives Vella-Wilkinson, Shekarchi, Williams, Casey, and  
Casimiro

Date Introduced: March 20, 2019

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

3 **42-11.1-3. Time period for payment.**

4 (a) All bills shall be paid within thirty (30) ~~working~~ calendar days of receipt of a proper  
5 invoice or other contractual dates for periodic payments, except when a contractor has failed to  
6 submit a bill in accordance with contractually imposed time frames.

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

15 (c) Each subcontractor shall make payments to its lower tier subcontractors within five  
16 (5) calendar days of receipt of payment by the prime contractor.

17 ~~(d)~~ This section shall not apply to contractors or subcontractors performing work  
18 pursuant to a contract awarded by the department of transportation ~~unless the subcontractor~~

1 ~~provides a payment and performance bond in an amount equal to the contract between the~~  
2 ~~contractor and subcontractor.~~

3 (e) The state shall pay a deposit to prime contractors in a sufficient period prior to the  
4 commencement of the scope of work of a minority business enterprise (MBE), as defined in § 37-  
5 14.1-3, subcontractors solely for the purpose of the prime contractor making prearranged  
6 scheduled payments, pursuant to a written contract between the prime contractor and MBE  
7 subcontractors, to MBE subcontractors for the scope of the MBE subcontractors' work. Upon  
8 receipt of the deposit, the prime contractor shall pay the MBE subcontractors, within five (5)  
9 calendar days, pursuant to the prearranged scheduled payments based upon percentage of work  
10 completed. Failure of the prime contractor to timely pay the MBE subcontractors, the state shall  
11 pay the MBE subcontractors directly and seek reimbursement from the prime contractor with any  
12 administrative costs incurred by the state. This payment schedule shall be attached as an exhibit  
13 to the prime contractor contract and approved by the state.

14 (f) The director of the department of administration shall adopt regulations in accordance  
15 with the administrative procedures act, chapter 35 of title 42, which are consistent with this  
16 chapter and the state purchases act, chapter 2 of title 37, governing the prompt payment by  
17 contractors to subcontractors and in the instance of payments to MBE subcontractors, deposits to  
18 contractors to allow weekly payments to MBE subcontractors.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- PROMPT PAYMENT BY  
DEPARTMENT OF ADMINISTRATION--SUBCONTRACTOR PAYMENTS

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1           This act would help expedite the payments made to subcontractors for work they perform  
2 on state contracts. It would also establish a new process to help minority business enterprises  
3 collect for their work on state contracts from their prime contractors.

4           This act would take effect upon passage.

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