

Senate Bill No. 462

(By Senators Unger and Kessler (Acting President))

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[Introduced February 8, 2011; referred to the Committee on
Government Organization; and then to the Committee on Finance.]

**FISCAL
NOTE**

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §12-3-5a, relating to
12 creating the Prompt Pay Act of 2011; requiring invoices to
13 state agencies be paid within sixty days; providing exceptions
14 to three specific agencies whose invoices must be processed
15 within fifteen days; requiring interest be paid on invoices
16 not paid within the prescribed time period; providing
17 exceptions for contested invoices; providing that no agency
18 owes another agency interest on an unpaid invoice; and
19 defining the term "state agency".

20 *Be it enacted by the Legislature of West Virginia:*

21 That the Code of West Virginia, 1931, as amended, be amended
22 by adding thereto a new section, designated §12-3-5a, to read as
23 follows:

24 **ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.**

25 **§12-3-5A. Payment of legitimate uncontested invoices; interest on**
26 **late payments.**

27 (a) Any properly registered and qualified vendor who supplies

1 services or commodities to any state agency is entitled to prompt
2 payment upon presentation to that agency of a legitimate
3 uncontested invoice.

4 (b) For purchases of services or commodities made on or after
5 July 1, 2011, a state check shall be issued in payment thereof
6 within sixty days after a legitimate uncontested invoice is
7 received by the state agency receiving the services or commodities.
8 Any state check issued after sixty days shall include interest at
9 the current rate, as determined by the State Tax Commissioner under
10 the provisions of section seventeen-a, article ten, chapter eleven
11 of this code. That interest shall be calculated for the sixty-first
12 day after such invoice was received by the state agency until the
13 date the payment is made.

14 (c) For purposes of the section, an invoice is deemed to be
15 received by a state agency on the date the invoice is marked as
16 received by the agency, or three days after the date of the
17 postmark made by the United States Postal Service as evidenced on
18 the envelope in which the invoice is mailed, whichever is earlier.
19 However, in the event an invoice is received by a state agency
20 prior to the date on which the commodities or services covered by
21 the invoice were actually delivered and accepted or fully performed
22 and accepted, the invoice is deemed to be received on the date on
23 which the commodities or services covered by the invoice were
24 actually delivered and accepted or fully performed and accepted.

25 (d) The State Auditor shall deduct the amount of any interest
26 due for late payment of an invoice from any appropriate account of
27 the state agency responsible for the late payment upon request from

1 the vendor and appropriate documentation therewith. If two or more
2 state agencies are responsible for the late payment, the State
3 Auditor shall deduct the amount of interest due on a pro rata
4 basis.

5 (e) The state agency initially receiving a legitimate
6 uncontested invoice shall process such invoice for payment within
7 ten days from its receipt: *Provided*, That invoices to the
8 Department of Health and Human Resources, the Division of Highways
9 and the Public Employees Insurance Agency shall be processed within
10 fifteen days of their receipt. No state agency is liable for
11 payment of interest owed by another state agency under this
12 section.

13 (f) Any other state agency charged by law with processing a
14 state agency's requisition for payment of a legitimate uncontested
15 invoice shall either process the claim or reject it for good cause
16 within ten days after such state agency receives it. Failure to
17 comply with the requirements of this subsection renders that state
18 agency liable for payment of the interest mandated by this section
19 when there is a failure to promptly pay a legitimate uncontested
20 invoice: *Provided*, That no such state agency is liable for payment
21 of interest owed by another state agency under this section.

22 (g) For purposed of this section, the phrase "state agency"
23 means any agency, department, board, office, bureau, commission,
24 authority or any other entity of state government.

25 (h) This section applies to, without exception, to any and all
26 payments made between the repeal of "The Prompt Pay Act of 1990,"
27 section fifty-four, article three, chapter five-a of this code on

1 March 13, 2010 and the effective date of this section.

2 (i) This section may be cited as "The Prompt Pay Act of 2011."

NOTE: The purpose of this bill is to create "The Prompt Pay Act of 2011." The bill requires invoices to state agencies be paid within sixty days and provides exceptions for three specific agencies whose invoices must be processed within fifteen days. The bill requires interest be paid on invoices not paid within the prescribed time period. The bill provides exceptions for contested invoices. The bill provides that no agency owes another agency interest on an unpaid invoice. The bill also defines the term "state agency."

This section is new; therefore, strike-throughs and underscoring have been omitted.