



General Assembly

January Session, 2017

Raised Bill No. 7073

LCO No. 4014



Referred to Committee on GENERAL LAW

Introduced by:
(GL)

***AN ACT CONCERNING REMEDIES IN LAWSUITS AGAINST
PROPERTY OWNERS BY SUBCONTRACTORS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-158j of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) Each construction contract shall contain the following
4 provisions: (1) A requirement that the owner pay any amounts due to
5 any contractor [.] in a direct contractual relationship with the owner, or
6 due to any subcontractor or supplier in a direct contractual
7 relationship with the [owner] contractor, whether for labor performed
8 or materials furnished, not later than thirty days after the date any
9 written request for such payment has been made to the owner by such
10 contractor, subcontractor or supplier; (2) a requirement that the
11 contractor pay any amounts due any subcontractor or supplier,
12 whether for labor performed or materials furnished, not later than
13 thirty days after the date the contractor receives payment from the
14 owner which encompasses labor performed or materials furnished by
15 such subcontractor or supplier; and (3) a requirement that the

16 contractor shall include in each of its subcontracts a provision
17 requiring each subcontractor and supplier to pay any amounts due any
18 of its subcontractors or suppliers, whether for labor performed or
19 materials furnished, not later than thirty days after the date such
20 subcontractor or supplier receives a payment from the contractor
21 which encompasses labor performed or materials furnished by such
22 subcontractor or supplier.

23 (b) Each payment requisition submitted by a contractor or
24 subcontractor in accordance with the requirements of subsection (a) of
25 this section shall include a statement showing the status of all pending
26 construction change orders, other pending change directives and
27 approved changes to the original contract or subcontract. Such
28 statement shall identify the pending construction change orders and
29 other pending change directives, and shall include the date such
30 change orders and directives were initiated, the costs associated with
31 their performance and a description of any work completed. As used
32 in this section, "pending construction change order" or "other pending
33 change directive" means an authorized directive for extra work that
34 has been issued to a contractor or a subcontractor.

35 (c) (1) If payment is not made by an owner in accordance with the
36 requirements of subdivision (1) of subsection (a) of this section or any
37 applicable construction contract, such contractor, subcontractor or
38 supplier shall set forth its claim against the owner through notice by
39 registered or certified mail.

40 (2) If payment is not made by a contractor in accordance with the
41 requirements of subdivision (2) of subsection (a) of this section or any
42 applicable construction contract, the subcontractor or supplier shall set
43 forth its claim against the contractor through notice by registered or
44 certified mail.

45 (3) If payment is not made by a subcontractor or supplier in
46 accordance with the provisions of subdivision (3) of subsection (a) of

47 this section, the subcontractor or supplier to whom money is owed
48 shall set forth its claim against the subcontractor or supplier who has
49 failed to comply with the provisions of said subdivision (3) through
50 notice by registered or certified mail.

51 (4) Ten days after the receipt of any notice specified in subdivisions
52 (1), (2) and (3) of this subsection, the owner, contractor, subcontractor
53 or supplier, as the case may be, shall be liable for interest on the
54 amount due and owing at the rate of one per cent per month. Such
55 interest shall accrue beginning on the date any such notice is received.
56 In addition, such owner, contractor, subcontractor or supplier, upon
57 written demand from the party providing such notice, shall be
58 required to place funds in the amount of the claim, plus such interest
59 of one per cent per month, in an interest-bearing escrow account in a
60 bank in this state, provided such owner, contractor, subcontractor or
61 supplier may refuse to place the funds in escrow on the grounds that
62 the party making such demand has not substantially performed the
63 work or supplied the materials according to the terms of the
64 construction contract. In the event that such owner, contractor,
65 subcontractor or supplier refuses to place such funds in escrow and
66 such owner, contractor, subcontractor or supplier is found to have
67 unreasonably withheld payment due a party providing such notice,
68 such owner, contractor, subcontractor or supplier shall be liable to the
69 party making demand for payment of such funds and for reasonable
70 attorneys' fees plus interest on the amount due and owing at the rate of
71 one per cent per month. In addition, any owner, contractor,
72 subcontractor or supplier who is found to have withheld payments to
73 a party providing such notice in bad faith shall be liable for ten per
74 cent damages.

75 (d) No payment may be withheld from a subcontractor or supplier
76 for work performed or materials furnished because of a dispute
77 between a contractor and another contractor, subcontractor or
78 supplier.

79 (e) This section shall not be construed to prohibit progress payments
80 prior to final payment of the contract and is applicable to all
81 subcontractors and suppliers for material or labor whether they have
82 contracted directly with the contractor or with some other
83 subcontractor on the work. Each owner that enters into a contract
84 under this section and fails or neglects to make payment to a
85 contractor for labor and materials supplied under a contract, as
86 required pursuant to this section, shall, upon demand of any person
87 who has not been paid by the contractor for such labor and materials
88 supplied in the performance of the work under the contract, promptly
89 pay the person for such labor or materials. Demand for payment shall
90 be served on the owner and a copy of each demand shall be sent to the
91 contractor by certified mail, return receipt requested to any address at
92 which the owner and contractor conduct business. If the owner fails to
93 make such payment, the person shall have a direct right of action
94 against the owner in the superior court for the judicial district in which
95 the project is located. The owner's obligations for direct payments to
96 the contractor, subcontractors or suppliers giving notice pursuant to
97 this section shall be limited to the amount owed to the contractor by
98 the owner for work performed under the contract at the date such
99 notice is provided.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2017</i>	42-158j
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Statement of Purpose:

To clarify that the remedy for bringing a lawsuit against a property owner by an unpaid subcontractor includes attorney's fees and interest.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]