

**Proposed Substitute  
Bill No. 5265**

LCO No. 2881

**AN ACT CONCERNING THE PROMPT PAYMENT OF CONTRACTORS.**

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

1 Section 1. Section 4a-60j of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2018*):

3 [A] Unless otherwise agreed by the parties in the terms of a written  
4 contract, a small contractor shall receive payment on a contract  
5 awarded to him or her under the provisions of sections 4a-60g to 4a-  
6 60i, inclusive, no later than [thirty] twenty-five days from the due date  
7 of any such payment on such contract.

8 Sec. 2. Section 42-158j of the 2018 supplement to the general statutes  
9 is repealed and the following is substituted in lieu thereof (*Effective*  
10 *October 1, 2018*):

11 (a) [Each] Unless otherwise agreed by the parties in the terms of a  
12 written construction contract, each construction contract shall contain  
13 the following provisions: (1) A requirement that the owner pay any  
14 amounts due to any contractor in a direct contractual relationship with  
15 the owner, or due to any subcontractor or supplier in a direct  
16 contractual relationship with the contractor, whether for labor  
17 performed or materials furnished, not later than thirty days after the  
18 date any written request for such payment has been made to the owner  
19 by such contractor, subcontractor or supplier; (2) a requirement that  
20 the contractor pay any amounts due any subcontractor or supplier,  
21 whether for labor performed or materials furnished, not later than  
22 [thirty] twenty-five days after the date the contractor receives payment

23 from the owner which encompasses labor performed or materials  
24 furnished by such subcontractor or supplier; and (3) a requirement that  
25 the contractor shall include in each of its subcontracts a provision  
26 requiring each subcontractor and supplier to pay any amounts due any  
27 of its subcontractors or suppliers, whether for labor performed or  
28 materials furnished, not later than [thirty] twenty-five days after the  
29 date such subcontractor or supplier receives a payment from the  
30 contractor which encompasses labor performed or materials furnished  
31 by such subcontractor or supplier.

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

44 (c) (1) If payment is not made by an owner in accordance with the  
45 requirements of subdivision (1) of subsection (a) of this section or any  
46 applicable construction contract, such contractor, subcontractor or  
47 supplier shall set forth its claim against the owner through notice by  
48 registered or certified mail. All amounts due from the owner pursuant  
49 to this subsection and subdivision (1) of subsection (a) of this section  
50 shall be limited to the amount owed to the contractor by the owner for  
51 work performed under the contract at the date such notice is provided.

52 (2) If payment is not made by a contractor in accordance with the  
53 requirements of subdivision (2) of subsection (a) of this section or any  
54 applicable construction contract, the subcontractor or supplier shall set  
55 forth its claim against the contractor through notice by registered or

56 certified mail.

57 (3) If payment is not made by a subcontractor or supplier in  
58 accordance with the provisions of subdivision (3) of subsection (a) of  
59 this section, the subcontractor or supplier to whom money is owed  
60 shall set forth its claim against the subcontractor or supplier who has  
61 failed to comply with the provisions of said subdivision (3) through  
62 notice by registered or certified mail.

63 (4) Ten days after the receipt of any notice specified in subdivisions  
64 (1), (2) and (3) of this subsection, the owner, contractor, subcontractor  
65 or supplier, as the case may be, shall be liable for interest on the  
66 amount due and owing at the rate of one per cent per month. Such  
67 interest shall accrue beginning on the date any such notice is received.  
68 In addition, such owner, contractor, subcontractor or supplier, upon  
69 written demand from the party providing such notice, shall be  
70 required to place funds in the amount of the claim, plus such interest  
71 of one per cent per month, in an interest-bearing escrow account in a  
72 bank in this state, provided such owner, contractor, subcontractor or  
73 supplier may refuse to place the funds in escrow on the grounds that  
74 the party making such demand has not substantially performed the  
75 work or supplied the materials according to the terms of the  
76 construction contract or that the funds so demanded are not due under  
77 the owner's contract with the contractor. In the event that such owner,  
78 contractor, subcontractor or supplier refuses to place such funds in  
79 escrow and such owner, contractor, subcontractor or supplier is found  
80 to have unreasonably withheld payment due a party providing such  
81 notice, such owner, contractor, subcontractor or supplier shall be liable  
82 to the party making demand for payment of such funds and for  
83 reasonable attorneys' fees plus interest on the amount due and owing  
84 at the rate of one per cent per month. In addition, any owner,  
85 contractor, subcontractor or supplier who is found to have withheld  
86 payments to a party providing such notice in bad faith shall be liable  
87 for ten per cent damages.

88 (d) No payment may be withheld from a subcontractor or supplier

89 for work performed or materials furnished because of a dispute  
90 between a contractor and another contractor, subcontractor or  
91 supplier.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	4a-60j
Sec. 2	<i>October 1, 2018</i>	42-158j