



# House of Representatives

General Assembly

**File No. 613**

January Session, 2019

Substitute House Bill No. 6666

*House of Representatives, April 11, 2019*

The Committee on Government Administration and Elections reported through REP. FOX of the 148th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT REQUIRING 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 Section 4a-60j of the general statutes is repealed and the  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, 2019*):

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

7 Sec. 2. Subsection (a) of section 42-158j of the general statutes is  
8 repealed and the following is substituted in lieu thereof (*Effective*  
9 *October 1, 2019*):

10 (a) Each construction contract shall contain the following  
11 provisions: (1) A requirement that the owner pay any amounts due to  
12 any contractor in a direct contractual relationship with the owner, or

13 due to any subcontractor or supplier in a direct contractual  
 14 relationship with the contractor, whether for labor performed or  
 15 materials furnished, not later than thirty days after the date any  
 16 written request for such payment has been made to the owner by such  
 17 contractor, subcontractor or supplier; (2) a requirement that the  
 18 contractor pay any amounts due any subcontractor or supplier,  
 19 whether for labor performed or materials furnished, not later than  
 20 [thirty] twenty-five days after the date the contractor receives payment  
 21 from the owner which encompasses labor performed or materials  
 22 furnished by such subcontractor or supplier; and (3) a requirement that  
 23 the contractor shall include in each of its subcontracts a provision  
 24 requiring each subcontractor and supplier to pay any amounts due any  
 25 of its subcontractors or suppliers, whether for labor performed or  
 26 materials furnished, not later than [thirty] twenty-five days after the  
 27 date such subcontractor or supplier receives a payment from the  
 28 contractor which encompasses labor performed or materials furnished  
 29 by such subcontractor or supplier.

|   |                 |            |
|---|-----------------|------------|
| This act shall take effect as follows and shall amend the following sections: |                 |            |
| Section 1   | October 1, 2019 | 4a-60j     |
| Sec. 2  | October 1, 2019 | 42-158j(a) |

**GAE**      *Joint Favorable Subst.*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which reduces the timeframe in which contractors have to pay their subcontractors from 30 days to 25 days for commercial construction contracts, has no fiscal impact.

**The Out Years****State Impact:** None**Municipal Impact:** None

**OLR Bill Analysis****sHB 6666****AN ACT REQUIRING THE PROMPT PAYMENT OF CONTRACTORS.****SUMMARY**

This bill requires commercial construction contracts to contain provisions requiring general contractors to (1) pay any subcontractor or supplier for labor and materials within 25 days after receiving payment from the owner (rather than 30 days under current law), and (2) include a comparable payment provision in each of their subcontracts. By law, unchanged by the bill, owners must pay amounts due for labor and materials within 30 days.

The bill also reduces the timeframe in which state agencies, quasi-public agencies, and municipalities must pay a small contractor under the Small and Minority-Owned Business Set-Aside program from 30 days to 25 days from the date payment is due (see BACKGROUND).

EFFECTIVE DATE: October 1, 2019

**BACKGROUND*****Commercial Construction Contracts***

By law, a construction contract is a contract or subcontract for construction, renovation, or rehabilitation between (1) an owner and contractor, (2) a contractor and subcontractor, or (3) subcontractors. But it is not a contract (1) for public works or other building entered into by any local, state, or federal governments; (2) funded or insured by the U.S. Department of Housing and Urban Development; (3) between an owner and contractor for less than \$25,000 or a subcontract made under one; or (4) for a building intended for residential occupancy with four or fewer units (CGS § 42-158i).

**Prompt Payment Laws**

Generally, prompt payment laws set out a schedule for project owners to pay contractors and contractors to in turn pay subcontractors. These laws also include remedies for contractors, subcontractors, and suppliers that are not paid according to the schedule. The remedies often include interest on the amount owed, beginning on the date payment was due and, for those contractors and subcontractors who are successful in civil actions for payment, attorneys' fees.

**Small and Minority-Owned Business Set-Aside Requirements**

By law, state agencies, quasi-public agencies, and municipalities must set aside at least 25% of the total value of contracts for construction, goods, and services each year for bidding exclusively by state-certified small businesses. They must further set aside 25% of the set-aside value for exclusive bidding by small businesses owned and operated by minority group members (CGS § 4a-60g).

Small and minority-owned small businesses may bid on a set-aside contract if they meet statutory criteria, as certified by the Department of Administrative Services for state contracts and the Commission on Human Rights and Opportunities for municipal public works contracts and contracts for quasi-public agency projects. A business or nonprofit organization qualifies as a small business if:

1. its principal place of business is in Connecticut;
2. it grossed no more than \$15 million in its most recent fiscal year;  
and
3. it does not depend on another person for personnel, facilities, equipment, other resources, and financial support, including bonding.

In addition to meeting these criteria, a small minority-owned business qualifies as a minority-owned business if (1) at least 51% of the business is owned by women, members of minority groups, or

people with disabilities and (2) these people possess managerial and technical competence and experience directly related to the business's principal activities.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 16 Nay 0 (03/29/2019)