

1 SB462 SUB1

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 462**

5 (By Senators Unger and Kessler (Acting President))

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8 [Originating in the Committee on Government Organization;  
9 reported February 17, 2011.]  
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13 A BILL to amend the Code of West Virginia, 1931, as amended, by  
14 adding thereto a new section, designated §12-3-5a, relating to  
15 creating the Prompt Pay Act of 2011; requiring invoices to  
16 state agencies be paid within sixty days; clarifying when  
17 invoices are considered received by a state agency; providing  
18 exceptions to three specific agencies whose invoices must be  
19 processed within fifteen days; requiring interest be paid on  
20 invoices not paid within the prescribed time period; providing  
21 exceptions for contested invoices; providing that no agency  
22 owes another agency interest on an unpaid invoice; defining  
23 the term "state agency"; and clarifying what invoices are  
24 subject to this section.

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

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

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

2 **§12-3-5A. Payment of legitimate uncontested invoices; interest on**  
3 **late payments.**

4 (a) Any properly registered and qualified vendor who supplies  
5 services or commodities to any state agency is entitled to prompt  
6 payment upon presentation to that agency of a legitimate  
7 uncontested invoice.

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

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

1 (d) The State Auditor shall deduct the amount of any interest  
2 due for late payment of an invoice from any appropriate account of  
3 the state agency responsible for the late payment upon request from  
4 the vendor and appropriate documentation therewith. If two or more  
5 state agencies are responsible for the late payment, the State  
6 Auditor shall deduct the amount of interest due on a pro rata  
7 basis.

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

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

25 (g) For purposes of this section, the phrase "state agency"  
26 means any agency, department, board, office, bureau, commission,  
27 authority or any other entity of state government.

28 (h) This section applies to, without exception, to any and all

1 payments made between the repeal of "The Prompt Pay Act of 1990,"  
2 section fifty-four, article three, chapter five-a of this code on  
3 March 13, 2010 and the effective date of this section.

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