

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2127 Session of  
1991

INTRODUCED BY G. SNYDER, BILLOW, CAPPABIANCA, MERRY, HERMAN,  
FLEAGLE, HAGARTY, TRELLO, DEMPSEY, BIRMELIN, BUSH, FARMER,  
GEIST, RAYMOND, ALLEN, FOX, LANGTRY, PHILLIPS, ARMSTRONG,  
ANGSTADT, HERSHEY, SAURMAN, NOYE, E. Z. TAYLOR, PRESTON,  
CLYMER, CORNELL, JOHNSON, D. W. SNYDER, SERAFINI, BARLEY,  
FREEMAN, BUNT, LEH, SCHULER, PERZEL, HALUSKA, B. SMITH,  
NICKOL AND FOSTER, NOVEMBER 12, 1991

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, NOVEMBER 12, 1991

AN ACT

1 Providing for the payment of interest on purchases by political  
2 subdivisions.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Political  
7 Subdivision Procurement Interest Payment Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Business concern." Any person engaged in a trade or  
13 business and operating as a contractor with a political  
14 subdivision, or a nonprofit entity operating as a contractor  
15 with a political subdivision.

1 "Local authority." A municipal authority or any other body  
2 corporate and politically created by one or more political  
3 subdivisions pursuant to statute.

4 "Payment made." A payment shall be considered made on the  
5 date on which a check for such payment is dated.

6 "Political subdivision." Any county, city, borough,  
7 incorporated town, township, school district, vocational school  
8 district, county institution district, local authority or any  
9 joint or cooperative body of political subdivisions having the  
10 power to enter into contracts.

11 "Proper invoice." An invoice which contains or is  
12 accompanied by such substantiating documentation as the  
13 political subdivision involved may require by regulation or  
14 contract.

15 "Qualified small business concern." Any independently owned  
16 and operated for-profit business concern employing 100 or fewer  
17 employees.

18 "Received invoice." Any invoice received by a political  
19 subdivision on the later of:

20 (i) the date on which the political subdivision's  
21 designated payment office or finance center actually receives  
22 a proper invoice; or

23 (ii) the date on which the political subdivision accepts  
24 the property or service concerned.

25 Section 3. Political subdivision interest payments.

26 (a) General rule.--

27 (1) In accordance with the provisions of paragraph (2),  
28 each political subdivision which acquires property or  
29 services from a business concern or a qualified small  
30 business concern but which does not make payment for each

1 complete delivered item of property or service by the  
2 required payment date shall pay an interest penalty to such  
3 business concern and to any qualified small business concern,  
4 in accordance with this section on the amount of the payment  
5 which is due.

6 (2) All of the following conditions shall apply for the  
7 payment of interest by a political subdivision:

8 (i) The required payment date shall be:

9 (A) the date on which payment is due under the  
10 terms of the contract for the provision of such  
11 property or service; or

12 (B) thirty calendar days after receipt of a  
13 proper invoice for the amount of the payment due, if  
14 a specific date on which payment is due is not  
15 established by contract.

16 (ii) Separate required payment dates for contracts  
17 under which property or services are provided in a series  
18 of partial executions or deliveries shall be established,  
19 to the extent that such contract provides for separate  
20 payment of such partial execution or delivery.

21 (iii) Prior to the date upon which payment without  
22 an interest penalty is due, a political subdivision shall  
23 notify the business concern or qualified small business  
24 concern of any defect in goods and services or  
25 impropriety in such invoice which would prevent the  
26 running of the time periods specified in this paragraph.

27 (iv) A qualified small business concern shall  
28 present on or with the invoice a statement that it meets  
29 the definition of a qualified small business concern  
30 contained in this section.

(b) Due date of payment.--

(1) Interest penalties payable on amounts due to a business concern or qualified small business concern under this section shall be paid to the business concern for the period beginning on the day after the required payment date and ending on the date on which payment on the amount due is made.

(2) Interest shall be computed at the rate determined by the Secretary of Revenue for interest payments on overdue taxes or the refund of taxes as provided in sections 806 and 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and any subsequent amendments to those sections.

(3) Interest may be paid by separate payment made to a business concern or qualified small business concern within 30 days of payment of the original invoice.

(4) Any amount of an interest penalty imposed because of a debt which remains unpaid at the end of any 30-day period shall be added to the principle amount of the debt and thereafter interest penalties shall accrue on such added amount.

(c) Funds for interest payment.--A political subdivision shall pay any interest penalties required by this section out of funds made available for the administration or operation of the program for which the penalty was incurred, or from general administrative funds of the political subdivision. Nothing in this section shall be construed to require payment of interest penalties from Federal or State funds if such payment is prohibited by Federal or State law or regulation.

(d) Claims.--Claims for interest penalties which a political

1 subdivision has failed to pay in accordance with the  
2 requirements of this section shall be made in a formal civil  
3 action against the offending political subdivision following the  
4 exhaustion of all contractual remedies.

5 (e) Disputes.--This section shall not be construed to  
6 require interest penalties on payments which are not made by the  
7 required payment date by reason of a dispute between a political  
8 subdivision and a business concern or qualified small business  
9 concern over the amount of that payment or other allegations  
10 concerning compliance with a contract.

11 Section 4. Nonapplication of act.

12 This act shall not apply to any "public contracts" subject to  
13 the act of November 26, 1978 (P.L.1309, No.317), referred to as  
14 the Public Works Contract Regulation Law.

15 Section 5. Applicability.

16 This act shall apply to all contracts entered into on or  
17 after January 1, 1992.

18 Section 6. Effective date.

19 This act shall take effect in 60 days.