
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2354 Session of
2015

INTRODUCED BY SANTORA AND DRISCOLL, SEPTEMBER 20, 2016

REFERRED TO COMMITTEE ON COMMERCE, SEPTEMBER 20, 2016

AN ACT

1 Amending the act of February 17, 1994 (P.L.73, No.7), entitled
2 "An act requiring timely payment to certain contractors and
3 subcontractors; and providing remedies to contractors and
4 subcontractors," further providing for owner's payment
5 obligations and for contractors' and subcontractors' payment
6 obligations.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 5 of the act of February 17, 1994
10 (P.L.73, No.7), known as the Contractor and Subcontractor
11 Payment Act, is amended by adding a subsection to read:
12 Section 5. Owner's payment obligations.

13 * * *

14 (e) Suspension of performance.--If payment is not received
15 by a contractor in accordance with this section, the contractor
16 shall have the right to suspend performance of any work, without
17 penalty, until payment is received in full. Any term in a
18 construction contract contrary to this subsection shall be
19 unenforceable. Suspension of performance may occur only if:
20 (1) payment has not been made to the contractor in

1 accordance with the schedule established under subsection
2 (c);

3 (2) the contractor has provided at least seven calendar
4 days' written notice of the contractor's intent to suspend
5 performance to the owner or the owner's authorized agent; and

6 (3) at least 60 calendar days have passed since the end
7 of the billing period for which payment has not been received
8 in full.

9 Section 2. Section 7(a) and (c) of the act are amended and
10 the section is amended by adding a subsection to read:

11 Section 7. Contractor's and subcontractor's payment
12 obligations.

13 (a) Entitlement to payment.--Performance by a subcontractor
14 in accordance with the provisions of the construction contract
15 shall entitle the subcontractor to payment from the party with
16 whom the subcontractor has contracted.

17 * * *

18 (c) Time for payment.--When a subcontractor has performed in
19 accordance with the provisions of the construction contract, a
20 contractor shall pay to the subcontractor, and each
21 subcontractor shall in turn pay to the subcontractor's
22 subcontractors, the full or proportional amount received for
23 each such subcontractor's work and materials, based on work
24 completed or service provided under the subcontract, 14 days
25 after receipt of each progress or final payment or 14 days after
26 receipt of the subcontractor's invoice, whichever is later.
27 Payment shall be made under this section unless it is being
28 withheld under section 11.

29 * * *

30 (e) Suspension of performance.--If payment is not received

1 by a subcontractor in accordance with this section, the
2 subcontractor shall have the right to suspend performance of any
3 work, without penalty, until payment is received in full. Any
4 term in a construction contract contrary to this subsection
5 shall be unenforceable. Suspension of performance may occur only
6 if:

7 (1) payment has not been made to the subcontractor in
8 accordance with the schedule established under subsection
9 (c);

10 (2) the subcontractor has provided at least seven
11 calendar days' written notice of the subcontractor's intent
12 to suspend performance to the owner or the owner's authorized
13 agent; and

14 (3) at least 60 calendar days have passed since the end
15 of the billing period for which payment has not been received
16 in full.

17 Section 3. This act shall take effect in 60 days.