

HOUSE BILL No. 5132

October 3, 1989, Introduced by Reps. Fitzgerald, Hillegonds, Stabenow, Miller, Walberg, Strand, Middaugh, Camp, Crandall, Krause, Jaye, Martin, Munsell, DeLange, Dunaskiss, Bandstra, Bender, Willis Bullard, Van Singel, Gilmer, Hoekman, Gnodtke, Giese, Stacey, Niederstadt, Gire, Hickner and DeBeaussaert and referred to the Committee on Appropriations.

A bill to provide for prompt payment by state agencies to vendors for goods and services; to prescribe sanctions; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as "the
2 prompt payment act".

3 Sec. 2. As used in this act:

4 (a) "Complete invoice" means a written request for a con-
5 tract payment that is submitted by a vendor setting forth the
6 description, price, and quantity of goods or services delivered
7 or rendered, in the form and supported by other substantiating
8 documentation as the department of management and budget may rea-
9 sonably require.

10 (b) "Food" or "food product" means items used for human
11 consumption, but does not include alcoholic beverages or drugs.

1 (c) "Required payment date" means the date by which a
2 contract payment must be made in order for a state agency not to
3 become liable for interest penalty payments pursuant to
4 section 11.

5 (d) "State agency" means a department, division, board,
6 bureau, authority, agency, office, council, or other body in the
7 executive branch of the state government.

8 (e) "Vendor" means a business that provides goods or serv-
9 ices and that is not a governmental entity.

10 Sec. 3. (1) Except as otherwise provided in this act or
11 agreed in writing, a state agency shall make payment for goods or
12 services before the expiration of 30 days after the date the
13 agency receives the goods or services, a complete invoice for the
14 goods or services, or a complete contract for the goods or serv-
15 ices, whichever is later.

16 (2) A state agency shall make payment on the purchase of
17 fresh or frozen meat, fish, shellfish, or poultry; fresh or
18 frozen meat, fish, shellfish, or poultry food products; or fresh
19 eggs or perishable egg food products before the expiration of 7
20 days after the date the agency receives the goods, a complete
21 invoice for the goods, or a complete contract for the goods,
22 whichever is later.

23 (3) A state agency shall make payment on the purchase of all
24 other food items not described in subsection (2) before the expi-
25 ration of 10 days after the date the agency receives the goods, a
26 complete invoice for the goods, or a complete contract for the
27 goods, whichever is later.

1 (4) If an industry, trade, or vocation has a common practice
2 of requiring payment for certain goods or services within a
3 shorter time period than the time period for the payment of goods
4 or services prescribed in subsection (1), and there is a regular
5 observance of that requirement by purchasers in an industry,
6 trade, or vocation so as to justify an expectation that it will
7 be observed with respect to the transaction in question, a state
8 agency shall make payment for the goods or services before the
9 expiration of the shorter time period for payment that is regu-
10 larly observed for the industry, trade, or vocation for the goods
11 or services.

12 (5) Notwithstanding subsection (1) or (4), on purchases of
13 goods or services priced at \$500.00 or less, a state agency shall
14 make payment before the expiration of 10 days after receipt or
15 acceptance of the goods or services.

16 Sec. 5. (1) All properly delivered goods or completed serv-
17 ices shall be received or accepted promptly by the state agency
18 making the purchase.

19 (2) Before the expiration of 3 days after the delivery of
20 the goods or completion of the services, the state agency that
21 receives the goods or services shall forward to its billing
22 office a properly completed receiving and disbursement voucher
23 invoice or payment request voucher invoice as may be required for
24 payment of a particular purchase.

25 (3) A state agency shall do all of the following:

26 (a) Date and time stamp each vendor invoice upon receipt.

1 (b) Record the required payment date on each receiving and
2 disbursement voucher invoice or payment request voucher invoice.

3 (c) Enter the required payment date for each receiving and
4 disbursement voucher invoice or payment request voucher invoice
5 into the general accounting financial management informations
6 system.

7 Sec. 7. If a contract requires or authorizes the delivery
8 of goods in separate lots to be separately accepted, partial pay-
9 ment shall be made on the partial deliveries within the time
10 period required by section 3.

11 Sec. 9. (1) If an invoice for goods or services received by
12 a state agency is filled out incorrectly or contains a defect or
13 impropriety, the agency shall notify the vendor that submitted
14 the invoice within 10 days after the invoice is received.

15 (2) If an invoice error or other defect or impropriety is
16 corrected by a vendor within 5 days after receipt of the notice
17 required by subsection (1), the state agency shall make payment
18 within the time period required by section 3.

19 Sec. 11. (1) Except as provided in section 15, if a payment
20 owed by a state agency to a vendor for goods or services is past
21 due, the agency shall pay interest on the amount past due at the
22 current monthly interest rate of 1 percentage point above the
23 adjusted prime rate per annum for the period described in
24 subsection (2). As used in this subsection, "adjusted prime
25 rate" means the average predominant prime rate quoted by not less
26 than 3 commercial banks to large businesses, as determined by the
27 department of treasury. The adjusted prime rate shall be based

1 on the average prime rate charged by not less than 3 commercial
2 banks during the 6-month period ending on March 31 and the
3 6-month period ending on September 30. One percentage point
4 shall be added to the adjusted prime rate, and the resulting sum
5 shall be divided by 12 to establish the current monthly interest
6 rate. The resulting current monthly interest rate based on the
7 6-month period ending March 31 is effective on the following
8 July 1, and the resulting current monthly interest rate based on
9 the 6-month period ending September 30 is effective on January 1
10 of the following year.

11 (2) The interest penalty provided in this section shall be
12 paid for the period beginning the day after the required payment
13 date and ending on the date on which payment is made.

14 (3) An amount of an interest penalty that is unpaid after
15 each month shall be added to the principal amount of the debt.

16 (4) Each payment subject to this act for which a late pay-
17 ment interest penalty is required to be paid shall be accompanied
18 by a notice stating the amount of the interest penalty included
19 in the payment and the rate by which, and period for which, the
20 penalty was computed.

21 (5) A state agency shall pay an interest penalty under this
22 act out of the funds available for the administration of that
23 state agency's programs.

24 (6) A state agency shall not require a vendor to submit a
25 petition, bill, statement, or other additional notice in order to
26 collect an amount due under subsection (1).

1 Sec. 13. A state agency offered a discount by a vendor from
2 an amount due under a contract for goods or services in exchange
3 for payment within a specified time may pay the discounted price
4 only if full payment is made within the specified time.

5 Sec. 15. Section 11 does not apply if a payment is delayed
6 because of a good faith disagreement between a state agency and a
7 vendor, unless the dispute is resolved in favor of the vendor.

8 Sec. 17. Each vendor that prevails in an administrative or
9 civil action to collect an interest penalty due under this act
10 shall be awarded reasonable attorney fees.

11 Sec. 19. Before January 31 of each year, the governor shall
12 submit a report to the majority leader of the senate and the
13 speaker of the house of representatives summarizing interest pen-
14 alty payments made under this act during the previous fiscal
15 year. The report shall contain all of the following:

16 (a) The number of interest penalty payments made by each
17 state agency.

18 (b) The total dollar amount of interest penalty payments
19 made by each state agency.

20 (c) The average dollar amount of each interest penalty pay-
21 ment made by each state agency.

22 Sec. 21. This act applies only to goods or services that
23 are received and for which a complete invoice is received by a
24 state agency after the effective date of this act.

25 Sec. 23. Act No. 279 of the Public Acts of 1984, being sec-
26 tions 17.51 to 17.57 of the Michigan Compiled Laws, is repealed.