WEST VIRGINIA CODE: §8-13-22D

§8-13-22d. Payment of legitimate uncontested invoices; interest on late payments; "Prompt Pay Act of 1995."

(a) Any properly registered and qualified vendor who supplies services or commodities to any municipality or agency thereof, shall be entitled to prompt payment upon presentation to that municipality or agency of a legitimate uncontested invoice.

(b)(1) Except as provided in subdivision (2) of this subsection, for purchases of services or commodities made on or after July 1, 1995, a check shall be issued in payment thereof within sixty days after a legitimate uncontested invoice is received by the municipality or agency receiving the services or commodities. Any check issued after the sixty days shall include interest at the current rate, as determined by the State Tax Commissioner under the provisions of section seventeen-a, article ten, chapter eleven of this code, which interest shall be calculated from the sixty-first day after the invoice was received by the municipality or agency until the date on which the check is mailed to the vendor: Provided, That this section shall not apply if payment cannot be made within the sixty-day period because of unforeseen budgetary constraints.

(2) For purposes of this subsection, an invoice shall be deemed to be received by a municipality or agency on the date on which the invoice is marked as received by the municipality or agency, or the date of the postmark made by the United States postal service as evidenced on the envelope in which the invoice is mailed, whichever is earlier, unless the vendor can provide sufficient evidence that the invoice was received by the municipality or agency on an earlier date: Provided, That in the event an invoice is received by a municipality or agency prior to the date on which the commodities or services covered by the invoice are delivered and accepted or fully performed and accepted, the invoice shall be deemed to be received on the date on which the commodities or services covered by the invoice were actually delivered and accepted or fully performed and accepted.

(c) The municipal treasurer shall deduct the amount of any interest due for late payment of an invoice from any appropriate account of the agency responsible for the late payment: Provided, That if two or more agencies are responsible for the late payment, the municipal treasurer shall deduct the amount of interest due on a pro rata basis.

(d) The municipality or agency initially receiving a legitimate uncontested invoice shall process the invoice for payment within ten days from its receipt. Failure to comply with the requirements of this subsection shall render the municipality or agency liable for payment of the interest mandated by this section when there is a failure to promptly pay a legitimate uncontested invoice: Provided, That a municipality or agency shall not be liable for payment of interest owed by another municipal agency under this section.

(e) Any other municipality or agency charged by law with processing a municipal agency's

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requisition for payment of a legitimate uncontested invoice shall either process the claim or reject it for good cause within ten days after such municipality or agency receives it. Failure to comply with the requirements of this subsection shall render the municipal agency liable for payment of the interest mandated by this section when there is a failure to promptly pay a legitimate uncontested invoice: Provided, That a municipal agency shall not be liable for payment of interest owed by another municipal agency under this section.

(f) For purposes of this section, the phrase "municipal agency" means any agency, department, board, office, bureau, commission, authority or any other entity of a municipal corporation.

(g) This section may be cited as the "Prompt Pay Act of 1995."

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