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President's message: At long last, victory for prompt pay

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What a difference a few weeks makes! When we last wrote for this column in July, a Prompt Pay law for Massachusetts still seemed little more than a dream -- or at least, a very long shot!

We were working hard on it, of course - as we had been for years -- and we were encouraged that it was gathering support on Beacon Hill. But we didn't dare predict that our bill would pass House and Senate, reach the Governor's desk and be signed into law, by the time of our next column. Incredibly, it was. An Act to Promote Fairness in Private Construction Contracts, c.293 of the Acts of 2010, was signed on August 10, and takes effect on Nov. 8. As president of ASM, I couldn't be more pleased and proud at this victory for fairness in private construction.

We have written here often about the problem of slow payment in construction, which has plagued the industry for years, and caused harm to contractors and subcontractors alike not just here in Massachusetts, but across the country, as well. So much so, that 32 other states had already passed prompt pay laws of their own. We are grateful that Beacon Hill legislators and the Governor both recognized it was time to take action here in Massachusetts, too, before the problem forced more businesses to shut their doors, freeze hiring or put workers on the street.

Not surprisingly, there was opposition to the bill throughout the process - primarily from general contractors. But the final version was a compromise worked out with the Associated General Contractors, at the urging of Senate leaders, and it is a bill is fair to all parties, from owner down to lowest tier sub-subcontractor.

Now that the law has passed, there continue to be voices of opposition, but we believe the concerns are based on misunderstanding. The Prompt Pay Law does nothing more than require everyone to do what they should be doing anyway: process paperwork promptly and pay in a timely way for services rendered. The law is simply about keeping the payment process moving and the funds flowing, which will work to everyone's benefit. Lenders should like the idea that the companies performing the work will get paid in a timely manner, and have no reason to stop work or pursue liens. Owners should like the idea that prices will be better without added contingency to cover risk of nonpayment. And general contractors should like the idea that there will no longer be a negative connotation to filing liens early or pursuing prompt payment - because now, it's out of their hands. It's simply the law.

Prompt payment laws have worked well in other states; there is no reason it shouldn't work here, too. After all, since when does paying bills on time cause problems for any industry? It's time to stop fearing change and give fair payment practices a chance. Visit ASM's website, www.associatedsubs.com, for more information about this new law.

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