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President's message: Prompt Pay becomes law in Massachusetts

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It's official! Construction "Prompt Pay" is now the law in Massachusetts, as c.293 of the Acts of 2010 took effect on November 8. The most significant construction legislation in more than a decade, the law is a major victory for ASM and the subcontractors of Massachusetts - and it's just great to see it finally become reality!

The new law applies to all prime contracts signed after November 8 with a value of \$3 million or more, except 1-4 unit residential projects. The goal is simple: to "keep the payment process moving" so that funds flow as they should on construction projects, and prompt payment becomes routine business practice.

The law sets reasonable, "not to exceed" time periods for approval (or rejection) and payment of progress billings; and sets up a similar process for acting on change orders. It provides due process for rejections, and the right to initiate dispute resolution after 60 days. It also eliminates the use of condition-precedent or "pay if paid" provisions, except in two very narrow circumstances; and as a last resort, it allows for the right to stop work for nonpayment.

The Prompt Pay Law represents major change for the construction industry, yet is change for the better, that will benefit all parties to a construction contract. At the Associated Subcontractors of Massachusetts, we couldn't be more pleased and proud to see it happen!

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