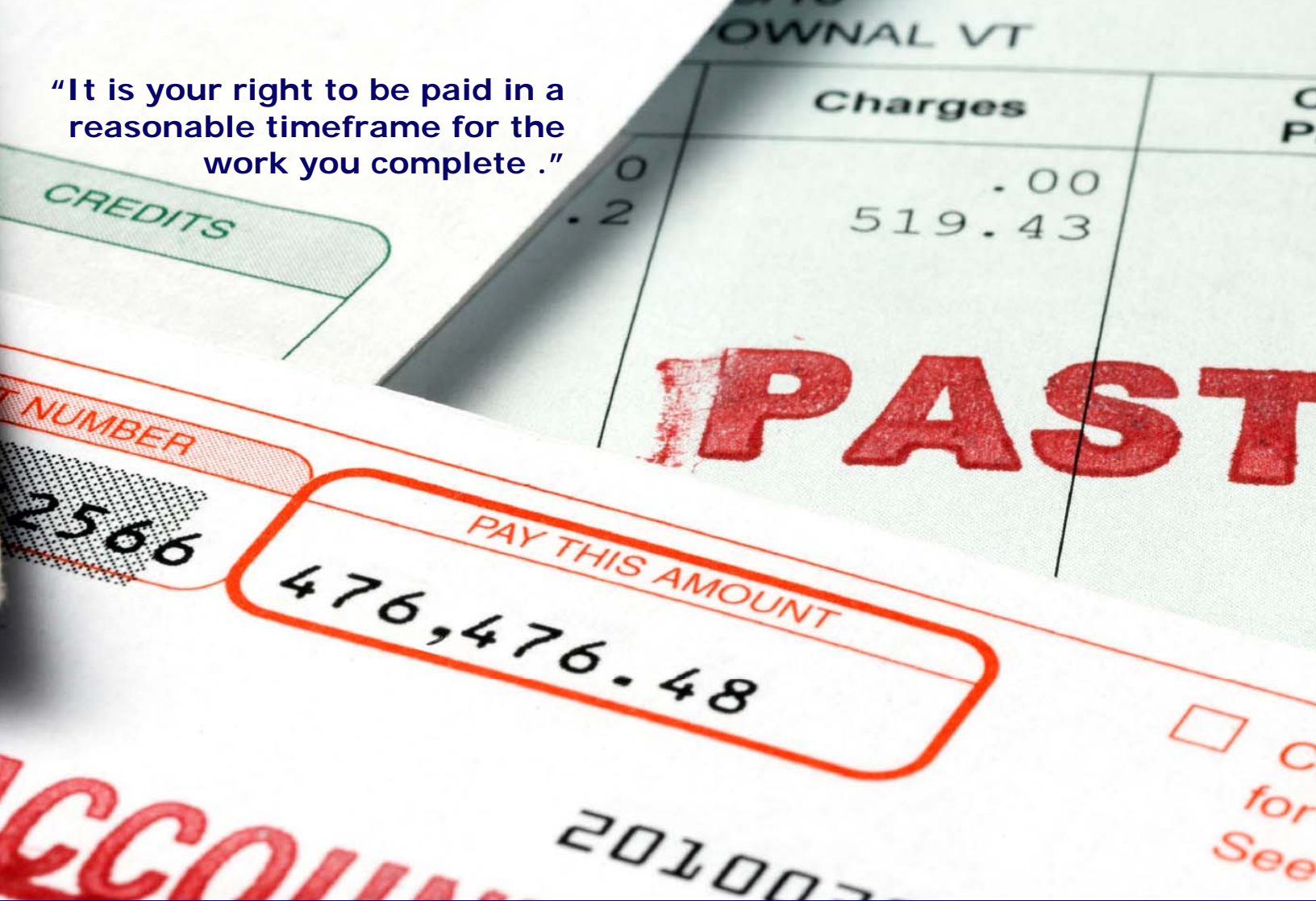


"It is your right to be paid in a reasonable timeframe for the work you complete ."



The Case for Prompt Payment Legislation in Ontario



"Improving the Integrity & Economic Efficiency of Ontario's Construction Industry"



The Problem—Waiting to Get Paid

What is delayed payment?

Delayed payment occurs when a payer unjustifiably holds onto funds for contracted work completed by the payee. Unduly holding up funds along the “Construction Project Chain” for completed work results in financial suffering and loss to those waiting to be paid. As those carrying out 90% of this work, Trade Contractors are most vulnerable to the effects of delayed payment.



The situation

Contractors in the province of Ontario can wait months to be paid for completed work. Months during which they still have to pay their employees and suppliers, make equipment and business loan payments, and pass up bidding on potentially lucrative work because they've maxed out their line of credit while waiting to be paid for a job long completed.



Why does it take so long for contractors to get paid?

It's in the interest of the buyers of construction, and others in the construction chain, to hold onto the funds for as long as they possibly can. Right now, there are no means in place to ensure contractors are paid in a timely fashion.

Most industries have established timelines for payment. You have to pay your phone bill, charge card, car lease and mortgage monthly. Failure to meet these obligations results in finance charges. Imagine walking up to the register in the grocery store and telling the cashier you'll be paying for your groceries in 90 days. You'll be leaving empty handed.

Trade contractors expect to be treated equally in the marketplace. To be treated fairly. An honest day's work for an honest day's pay. NOT an honest day's work for an honest day's pay...EVENTUALLY

The scope of the problem

Delayed payment is not unique to the Ontario construction industry, it's been a problem world wide. In countries like the United Kingdom, Australia and the United States of America legislative steps have been taken to address the issue—they've introduced **Prompt Payment legislation**.

It has been proven to work in other jurisdictions and it can work in Ontario.

The Solution—Prompt Payment Legislation

Prompt Payment legislation will ensure contractors are paid on time and reduce opportunities for delayed payments. Effective Prompt Payment legislation must:

1. Be consistent with unaltered, standard industry consensus contract forms;
2. Establish due dates for payment;
3. Require general contractors and owners to identify specific problems in writing before withholding payment;
4. Provide the right for sub-contractors to be informed of payments made to the general contractor from the owner;
5. The right to charge interest on late payments; and,
6. The right to suspend work for non-payment.



To make it work:

The details of Prompt Payment legislation must be consistent with existing Provincial Lien legislation and standard industry consensus documents.

The work has been done:

Recently the National Trade Contractors Coalition of Canada (NTCCC), in concert with the Council of Ontario Construction Associations (COCA), supplied draft language for prompt payment legislation in the form of a Private Members Bill introduced in the Legislature on June 1, 2011 by Brant MPP Dave Levac. Unfortunately, government was prorogued later that same day. Since then we have refined consensus documents.

Attached is the result of our efforts—refined and improved draft Prompt Payment legislation for the province of Ontario. Draft legislation that will help Ontario construction companies pay their workers, pay their taxes and drive the Ontario economy.

Evidence Prompt Payment Legislation Works

“As a state legislator, I was able to help address construction payment issues. My brothers and I grew up helping our tradesman father, a sub-contractor. He worked hard, and I remember the feelings of seeing him sweat at honest work and not get paid. A small businessman, he did not have the ability to take legal action against those who took advantage of his effort. I wanted to make a difference for those families in sub-contracting businesses by making sure they received payment in a timely manner for the work performed.”

Arizona State Senator
Russel “Rusty” Bowers

“Arizona’s prompt pay law prevents owners and general contractors from financing projects with sub-contractor’s money.”

Mark Giebelhaus, Marlin Mechanical

“Prompt payment has created a legislative mechanism to ensure payment of sub-contractors, who have fulfilled their contractual obligation on a construction project.”

Debra Margraf
Arizona Chapter NECA

Evidence it is Needed

“The following is an example of work issued and completed on site where funds have been unreasonably withheld. Contractor was asked to bring ‘value added’ to emergency system add on. Completed work without written PO. \$80,000 payment not approved because of a \$300 component on back order.”

“Contractors are fed up with payment received from owners being withheld. When they press for an answer, they hear, ‘You should get your money in the next cheque run.’ Established due dates and the right to be informed when payments are made by owners will alleviate this problem.”

The National Trade Contractors Coalition of Canada, presently comprised of ten national trade contracting groups is focussed on two priority issues: getting paid and getting paid promptly for work performed and the promotion of unaltered forms of industry accepted standard forms and contracts.



Industry Partner

