

PARTNERS *in* **PROGRESS**

2008 **CONFERENCE**

FACE CHALLENGES **CREATE SOLUTIONS**





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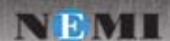


New Mexico's Prompt Payment Act



OVERVIEW

- Relates to construction contracts
- Originally called the Retainage Act
- Specific payment schedules in all construction contracts
- Interest on late payments
- Covers all tiers



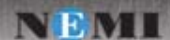
Definitions

Construction

- building, altering, repairing, installing or demolishing in the ordinary course of business

Contractor

- a person performing construction through a contract with an owner





Owner

- a person, local public body or state agency other than the department of transportation

Person

- an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or similar legal entity



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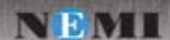
Subcontractor

- a person performing construction for the owner not through a contract with the owner



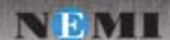
Payments

- Payments must be paid within 21 days after owner receives undisputed request for payment
- Interest will be computed at 1-1/2% per month or fraction of a month and paid to contractor beginning on the 22nd day after payment was due until payment is issued.



Prompt Pay for All Tiers

- Contractors and subcontractors must make prompt payment to their subs and suppliers within 7 days after receipt of payment from the owner, contractor or subcontractor
- Interest of 1-1/2% will be computed at 1-1/2% per month or fraction of a month beginning on the 8th day after payment was due until payment is issued.



Extended Payment Provision

- Payments by local public body may be made within 45 days after submission of undisputed request when grant money is a source of funding



Amendments to Statute

- Does not apply to construction contracts for residential property containing four or fewer dwelling units.
- Changed from Retainage Act in 2007
- Owner, contractor, or subcontractor cannot retain or withhold in any manner payment owed for work performed

