

SENATE No. 817

The Commonwealth of Massachusetts

SENATE, July 25, 1955.

The committee on Bills in the Third Reading to which was referred the House bill to provide security for payments to laborers, subcontractors, suppliers and others engaged in public construction (House, No. 2768, amended) reports recommending that the same be amended by substituting therefor a new draft with the same title (Senate, No. 817), and that, when so amended, the same will be correctly drawn.

For the committee,

CHARLES J. INNES.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Five.

AN ACT TO PROVIDE SECURITY FOR PAYMENTS TO LABORERS, SUBCONTRACTORS, SUPPLIERS AND OTHERS ENGAGED IN PUBLIC CONSTRUCTION.

*Be it enacted by the Senate and House of Representatives in
General Court assembled, and by the authority of the same,
as follows:*

1 SECTION 1. Section 39 of chapter 30 of the General
2 Laws, as most recently amended by section 1 of chapter
3 472 of the acts of 1935, is hereby further amended by
4 striking out, in line 17, the word "sixty" and inserting
5 in place thereof the word: — ninety.

1 SECTION 2. Chapter 149 of the General Laws is
2 hereby amended by striking out section 29, as most re-
3 cently amended by chapter 361 of the acts of 1938, and
4 inserting in place thereof the following section: —

5 *Section 29.* Officers or agents contracting in behalf of
6 any county, city, town, district or other political sub-
7 division of the commonwealth or other public instru-
8 mentality for the construction or repair of public build-
9 ings or other public works shall obtain sufficient security,
10 by bond or otherwise, for payment by the contractor and
11 subcontractors for labor performed or furnished and
12 materials used or employed in such construction or re-
13 pair, including lumber so employed which is not incor-
14 porated in the construction or repair work and is not
15 wholly or necessarily consumed or made so worthless
16 as to lose its identity but only to the extent of its pur-
17 chase price less its fair salvage value, and for payment
18 by such contractor and subcontractors of any sums due
19 for the rental or hire of vehicles, steam shovels, rollers
20 propelled by steam or other power, concrete mixers,

21 tools and other appliances and equipment employed in
22 such construction or repair; but in order to obtain the
23 benefit of such security the claimant shall file with the
24 county treasurer in the case of a contract with a county,
25 with the city or town clerk in the case of a contract with
26 a city or town, and with the contracting officer or agent
27 in the case of a contract with a district or other political
28 subdivision or other public instrumentality a sworn
29 statement of his claim within ninety days after the
30 claimant ceases to perform labor or furnish labor,
31 materials, appliances and equipment as aforesaid, and
32 shall, within one year after the filing of such claim, file a
33 petition in the superior court for the proper county to
34 enforce his claim or intervene in a petition already filed;
35 provided, that notwithstanding the foregoing, in case a
36 petition has been duly filed hereunder, any other person
37 who has duly filed a claim solely for labor performed or
38 furnished on or in connection with a certain public work
39 may obtain his rights in the following manner: — The
40 court, before making final disposition of such petition,
41 shall examine all claims which may arise under this
42 section and which have been duly filed in accordance
43 herewith, and determine the respective amounts due
44 such claimants and their rights to participate in the
45 security and apply the security to the claimants held
46 entitled thereto; and the court shall have power to com-
47 pel the attendance of any official with whom such claims
48 may be on file, with such claims. The court may require
49 such officials to furnish for the use of the court copies of
50 any such claims as may be on file. Any claimant whose
51 claim has been duly filed shall have the right to appear
52 at hearings on any petition without formally intervening
53 by any pleadings, and may object, except or appeal from
54 any ruling or decision adversely affecting his claim to the
55 same extent and in the same manner as though he had
56 intervened by formal pleadings.

57 Any person employing persons on any public works
58 hereinbefore referred to shall post conspicuously, at such
59 place or places as will provide reasonable opportunity for

60 all employees to read the same, a correct copy of this
61 section. The department shall enforce this paragraph.

1 SECTION 3. Section thirty-nine of chapter thirty of
2 the General Laws and section twenty-nine of chapter
3 one hundred and forty-nine of the General Laws, as
4 amended by sections one and two of this act, shall apply
5 only to contracts executed on and after the effective
6 date of this act. Contracts executed prior to the effec-
7 tive date of this act shall be subject to the provisions of
8 section thirty-nine of chapter thirty of the General
9 Laws and section twenty-nine of chapter one hundred
10 and forty-nine of the General Laws, as in effect immedi-
11 ately prior to said effective date.