

---

---

By Mr. Umana, a petition of Mario Umana for legislation relative to the method of payment to suppliers on public works contracts of the Commonwealth or any political subdivision thereof. State Administration.

---

---

## The Commonwealth of Massachusetts

---

In the Year One Thousand Nine Hundred and Sixty-Four.

---

AN ACT PROVIDING A METHOD OF PAYMENT TO CERTAIN SUPPLIERS ON CONTRACTS FOR THE CONSTRUCTION, RECONSTRUCTION, ALTERING, REMODELING, REPAIR OR DEMOLITION OF CERTAIN PUBLIC WORKS BY THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF.

*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 39F of chapter 30 of the General Laws is hereby  
2 amended by striking out the first paragraph, as appearing in  
3 section 1 of chapter 677 of the acts of 1956, and inserting in  
4 place thereof the following paragraph: — Every contract for  
5 the construction, reconstruction, alteration, remodeling, re-  
6 pair or demolition of any public building or public works by the  
7 commonwealth, or by any county, city, town, district, board,  
8 commission or other public body, when the amount involved  
9 is more than five thousand dollars in the case of the com-  
10 monwealth and more than two thousand dollars in the case of  
11 any county, city, town, district, board, commission or other  
12 public body, shall contain the following in its entirety: Within  
13 ten days after the general contractor receives payment on ac-  
14 count of a periodic estimate of the value of the work done,  
15 he shall pay to each subcontractor or supplier the sum con-  
16 tained therein for the value of said subcontractor's work or  
17 supplier's materials, less any amount retained therefrom by  
18 the awarding authority under the terms of the general contract  
19 or in consequence of any legal proceedings or statutory liens,

20 and less any amount due the general contractor under the  
21 subcontract or supplier's purchase order. Not later than the  
22 sixty-fifth day after each subcontractor or supplier fully com-  
23 pletes his portion of the work in accordance with the plans and  
24 specifications, the entire balance due under the subcontract  
25 shall be due the subcontractor or supplier and shall be paid  
26 to the general contractor by the awarding authority for the  
27 account of the subcontractor or supplier and in partial pay-  
28 ment of the amount due under the general contract; provided,  
29 however, that the awarding authority may withhold from such  
30 partial payment all amounts retained by the awarding author-  
31 ity pending its determination that said portion of the work is  
32 satisfactory or in consequence of any legal proceedings or  
33 statutory liens. The general contractor shall forthwith pay to  
34 the subcontractor or supplier the full amount received as afore-  
35 said from the awarding authority for the account of such sub-  
36 contractor or supplier less any amount due the general con-  
37 tractor under the subcontract; and the awarding authority  
38 may take such steps as it may deem necessary to arrange that  
39 such amounts are paid by the general contractor to the sub-  
40 contractor or supplier forthwith. If within ten days after the  
41 aforementioned sixty-fifth day, the subcontractor or supplier  
42 has not received from the general contractor the entire bal-  
43 ance due on the subcontract less the aforesaid amounts, the  
44 subcontractor or supplier shall give the awarding authority  
45 and the general contractor written notice of such failure to re-  
46 ceive payment and of the amount so payable, but not paid by  
47 the general contractor. Thereupon the awarding authority  
48 shall make, out of sums payable to the general contractor on  
49 the general contract, direct payment to the subcontractor or  
50 supplier of the entire balance due on the subcontract less the  
51 aforesaid amounts. Such direct payment by the awarding  
52 authority to any subcontractor or supplier and any payment  
53 to a general contractor for the account of a subcontractor as  
54 hereinbefore provided shall discharge the obligation of the  
55 awarding authority to the general contractor to the extent of  
56 such payment.