
By Mr. Mendonca, a petition (accompanied by bill, Senate, No. 1312) of the Associated Subcontractors of Massachusetts, by Robert A. LaCentra, executive vice president, and George G. Mendonca for legislation to provide for appeals by contractors and subcontractors to the secretary of the Executive Office of Transportation and Construction. State Administration.

The Commonwealth of Massachusetts

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

AN ACT TO PROVIDE FOR DECISIONS OF THE SECRETARY OF THE EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION ON CLAIMS OF CONTRACTORS AND SUBCONTRACTORS AND TO PROVIDE FOR THE APPOINTMENT OF A HEARING EXAMINER TO HEAR SUCH APPEALS.

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

1 The first sentence in the third paragraph of section 25 of
2 chapter 6A of the General Laws is hereby amended by striking
3 out the word "three" before the word "days" and inserting in
4 place thereof the word "fifteen" and by striking out the last
5 sentence in that paragraph and by adding the following four
6 paragraphs: —

7 A contractor or a filed subcontractor may appeal to the
8 secretary any matter or claim involving a decision of the
9 director and any matter or claim on which the director has
10 failed to render a decision within twenty days after the matter
11 or claim is filed with the director for decision. To assist the
12 secretary in hearing such appeals, he shall, with the approval
13 of the governor, appoint an attorney, who shall be a member
14 of the bar of the commonwealth preferably with experience as
15 an auditor or master in hearing disputes arising out of building
16 construction, to the position of hearing examiner, and may
17 remove him for cause in like manner. The hearing examiner
18 shall receive a salary of eighteen thousand dollars, shall devote
19 his entire time during business hours to the duties of his

20 position and shall not engage in the private practice of law.

21 The hearing examiner shall hear all such claims, shall at the
22 request of the claimant or of the director or on his own
23 motion, summon witnesses and require the production of
24 books and records and take testimony under oath. The reports
25 of the examiner shall be maintained as public records in a place
26 and form fully accessible to the public.

27 The secretary shall, with the assistance of the hearing
28 examiner, render decisions in writing on all such matters and
29 claims within seven days after the hearing examiner renders his
30 report.

31 This section shall not require any contractor or filed sub-
32 contractor to submit any matter or claim to the director for
33 decision or to appeal any matter or claim to the secretary.
34 Neither a decision of the director nor an appeal to the
35 secretary shall be a condition precedent to recovery against the
36 commonwealth in a suit under the provisions of chapter two
37 hundred and fifty-eight and neither the decision of the secre-
38 tary nor the report of the hearing examiner shall be admissible
39 in evidence in any such suit.