

# HOUSE . . . . . No. 91

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Accompanying the sixth recommendation of the Department of Public Works (House, No. 85). State Administration.

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## The Commonwealth of Massachusetts

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

AN ACT TO ADJUST THE DATE FOR THE BEGINNING OF THE ACCRUAL OF INTEREST ON UNPAID BALANCES ON COMPLETED CONTRACTS FOR THE CONSTRUCTION OF PUBLIC WORKS WITH THE TIME ALLOWED FOR THE FILING OF CLAIMS OF LIEN BY SUBCONTRACTORS AND OTHERS.

*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 39G of chapter 30 of the General Laws,  
2 as most recently amended by chapter 360 of the acts of 1957, is  
3 hereby further amended by striking out the words "sixty-five"  
4 in the first, sixth and eighth sentences, and inserting in place  
5 thereof the word: — ninety, — and by striking out the word  
6 "sixty-six" in the next to the last sentence and inserting in place  
7 thereof the word: — ninety-one, — so as to read as follows: —  
8 *Section 39G.* Within ninety days after the work required by a  
9 contract with the commonwealth or any agency or political sub-  
10 division thereof for the construction, reconstruction, alteration,  
11 remodeling or repair of a public building or for the construction,  
12 repair, alteration or improvement of public ways, including  
13 bridges and other highway structures, sewers and water mains,  
14 airports and other similar public works has been completed to  
15 the satisfaction of the duly authorized representative or agent  
16 of the contracting authority, a final estimate of the quantity of  
17 work done thereunder and the value of such work shall be pre-  
18 pared in duplicate by such duly authorized representative or  
19 agent of the contracting authority shall be submitted forthwith

20 to the contracting authority and a duplicate copy shall be trans-  
21 mitted to the contractor. Such final estimate shall include the  
22 value of all work performed under any such contract and all re-  
23 tained percentage, after deducting therefrom the total of all  
24 previous periodic or partial payments. The contracting au-  
25 thority shall deduct and retain from payment of said final es-  
26 timate a sum sufficient to satisfy any and all outstanding claims  
27 or liens that have been duly filed against a contractor under the  
28 provisions of section thirty-nine or thirty-nine A of this chapter  
29 or section twenty-nine of chapter one hundred and forty-nine,  
30 and may also deduct and retain from such payment any other  
31 amounts to be deducted or retained in accordance with the terms  
32 of the contract.

33 If, after final inspection has been made, there are any pay-  
34 ment or extra work items that are in dispute between the con-  
35 tractor and the contracting authority, either as to the quantity  
36 or value of work performed hereunder, such items or claims may  
37 be excluded from the final estimate, and payment for such dis-  
38 puted items may be deferred until such time as agreement has  
39 been reached between the contractor and contracting authority  
40 or until such claim has been adjudicated. In such cases, a semi-  
41 final estimate shall be prepared within said period of ninety days  
42 after completion covering the value of all work performed and  
43 all retained percentage on all items of the contract that are not  
44 in dispute but subject to the same deductions and retainage as  
45 set forth above and with all disputed items or claims excluded.  
46 The existence of a dispute between a contractor and the con-  
47 tracting authority as to any payment item or items shall not  
48 be considered a valid reason for delaying preparation of a semi-  
49 final estimate as provided herein.

50 In the event any such contract has been substantially com-  
51 pleted and the project has been opened to public use by order  
52 of the contracting authority or its duly authorized representa-  
53 tive or agents, but final acceptance of the work is subject to  
54 delay because of minor uncompleted items which do not impair  
55 the usefulness of the project, a semifinal estimate shall also be  
56 prepared within a like period of ninety days after such contract  
57 has been substantially completed and placed in public use. Such  
58 semifinal estimate shall include an estimate of the value of all  
59 work performed in accordance with the terms of the contract,  
60 including the amount of retained percentage withheld by the

61 contracting authority from previous periodic payments, but ex-  
62 cluding (a) the same deductions and retainage as in the case of  
63 final estimates, as provided by the first paragraph of this sec-  
64 tion, (b) an estimate of the value of the work remaining to be  
65 performed and (c) any items or claims for extra work, or parts  
66 thereof, that may be in dispute; and payment for such excluded  
67 items or portions thereof may be deferred until such remaining  
68 work has been satisfactorily completed, or in the case of dis-  
69 puted items or claims until such time as agreement has been  
70 reached thereon or such claim has been adjudicated.

71 If a contracting authority or its duly authorized representa-  
72 tive or agent delays or fails to prepare any final or semifinal  
73 estimate within the period of time provided by this section, in-  
74 terest on the amount due a contractor on any such final or semi-  
75 final estimate shall be computed and paid by the contracting  
76 authority at the rate of five per cent per annum, beginning  
77 ninety-one days after the contract has been satisfactorily com-  
78 pleted, or the project has been substantially completed and  
79 opened to public use, as the case may be, and running until the  
80 date such estimate has been prepared and submitted to the con-  
81 tractor for acceptance. The amount of such interest shall be  
82 included in the estimate when prepared.

1 SECTION 2. This act shall take effect upon its passage.

The first part of the history is a general account of the state of the country at the beginning of the reign of King Henry the Second. It describes the various provinces and the different manners of the people. It also mentions the wars which were carried on between the king and the nobles, and the manner in which the king at last prevailed upon them to submit to his authority.

The second part of the history is a more particular account of the reign of King Henry the Second. It describes the various wars which he carried on, and the manner in which he at last prevailed upon the nobles to submit to his authority. It also mentions the various reforms which he made in the laws and the constitution of the country.

The third part of the history is a more particular account of the reign of King Richard the First. It describes the various wars which he carried on, and the manner in which he at last prevailed upon the nobles to submit to his authority. It also mentions the various reforms which he made in the laws and the constitution of the country.

The fourth part of the history is a more particular account of the reign of King John. It describes the various wars which he carried on, and the manner in which he at last prevailed upon the nobles to submit to his authority. It also mentions the various reforms which he made in the laws and the constitution of the country.