

By Mr. Crane of Boston, petition of Charles Francis Mahoney relative to the adjustment of the date for the beginning of 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. State Administration.

**The Commonwealth of Massachusetts**

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

AN ACT PROVIDING FOR THE IMPLEMENTATION OF THE STONE AND WEBSTER RECOMMENDATION THAT 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 ADJUSTED.

*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 39G of chapter 30 of the General Laws, as most re-  
2 cently amended by chapter 360 of the acts of 1957, is hereby  
3 further amended by striking out the word "sixty-five" in the  
4 first, sixth and eighth sentences, and inserting in place thereof  
5 the word: — ninety, — and by striking out the word "sixty-six"  
6 in the next to the last sentence and inserting in place thereof the  
7 word: — ninety-one, — so as to read as follows: — *Section 39G.*  
8 Within ninety days after the work required by a contract with  
9 the commonwealth or any agency or political subdivision thereof  
10 for the construction, reconstruction, alteration, remodelling or  
11 repair of a public building or for the construction, repair, alter-  
12 ation or improvement of public ways, including bridges and  
13 other highway structures, sewers and water mains, airports and  
14 other similar public works, has been completed to the satisfac-  
15 tion of the duly authorized representative or agent of the con-  
16 tracting authority, a final estimate of the quantity of work done

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

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

51 In the event any such contract has been substantially com-  
52 pleted and the project has been opened to public use by order of  
53 the contracting authority or its duly authorized representative  
54 or agents, but final acceptance of the work is subject to delay  
55 because of minor uncompleted items which do not impair the  
56 usefulness of the project, a semifinal estimate shall also be pre-

57 pared within a like period of ninety days after such contract has  
58 been substantially completed and placed in public use. Such  
59 semifinal estimate shall include an estimate of the value of all  
60 work performed in accordance with the terms of the contract,  
61 including the amount of retained percentage withheld by the  
62 contracting authority from previous periodic payments, but  
63 excluding (a) the same deductions and retainage as in the case of  
64 final estimates, as provided by the first paragraph of this section,  
65 (b) an estimate of the value of the work remaining to be per-  
66 formed and (c) any items or claims for extra work, or parts  
67 thereof, that may be in dispute; and payment for such ex-  
68 cluded items or portions thereof may be deferred until such re-  
69 maining work has been satisfactorily completed, or in the case  
70 of disputed items or claims until such time as agreement has been  
71 reached thereon or such claim has been adjudicated.

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

