

By Mr. Marshall of Quincy, petition (subject to Joint Rule 12) of Clifford H. Marshall relative to liens for persons designing buildings and providing payment for services performed by certain architects and engineers. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT RELATIVE TO LIENS FOR PERSONS DESIGNING BUILDINGS AND PROVIDING PAYMENT FOR SERVICES PERFORMED BY CERTAIN ARCHITECTS AND ENGINEERS.

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. Chapter 30 of the General Laws is hereby
2 amended by inserting after section 39M the following section:—
3 *Section 39N.* Every contract for architectural and engineering
4 services rendered in connection with study, investigation, surveys
5 and design of construction, reconstruction, alterations, remodel-
6 eling, repair, improvement or demolition of any public buildings,
7 public ways, bridges and other highway structures, sewers and
8 water mains, airports, depots, facilities and all similar public
9 works by the commonwealth or any agency or political sub-
10 division thereof, or by any county, city, town, district, board,
11 commission or other public body, shall contain the following
12 paragraphs:—

13 Within forty-five days after receipt from the architect or
14 engineer who has a contract under the awarding authority of a
15 bill requesting payment of an amount due for work performed
16 which is based on the method of payment provided for in the
17 contract, the awarding authority shall make the requested
18 payment. Where the method of payment under the contract is
19 periodic, the amount due and payable, shall be determined by
20 the contract. If the awarding authority fails to make payment as
21 herein provided, there shall be added to each such payment daily
22 interest at the rate of five percent per annum commencing on the

23 first day after said payment is due and payable and until the
24 payment is made to the architect or professional engineer.

25 The awarding authority may make changes in any periodic
26 estimate submitted by the architect or professional engineer and
27 the payment due on said periodic estimate shall be computed in
28 accordance with the changes so made, but such changes or any
29 requirement for a corrected periodic estimate in accordance
30 therewith shall not affect the due date for the periodic payment
31 or the date for the commencement of interest charges on the
32 amount of the periodic payment computed in accordance with
33 the changes made, as provided herein; provided that the awarding
34 authority may, within seven days after receipt, return to the
35 architect or professional engineer for correction, any periodic
36 estimate which is not in the required form or which contains
37 computations not arithmetically correct and, in that event, the
38 date of receipt of such estimate shall be the date of receipt of the
39 corrected periodic estimate in proper form with arithmetically
40 correct computations. The date of receipt of a periodic estimate
41 received on a Saturday shall be the first working day thereafter.

42 The terms “architect” or “professional engineer” shall include
43 a partnership or any other firm of architects or professional
44 engineers or a combination of both, or any corporation lawfully
45 practicing architecture or practicing engineering when used in the
46 above paragraph.

1 SECTION 2. The first paragraph of section 2 of chapter 254
2 of the General Laws is hereby amended by striking out the first
3 sentence and inserting in place thereof the following
4 sentence:— A person entering into a written contract with the
5 owner of land for the whole or any part of the design, erection,
6 alteration, repair or removal of a building or structure upon land,
7 or for furnishing material therefor, shall have a lien upon said
8 building or structure and upon the interest of the owner in said
9 lot of land as appears of record at the date when notice of said
10 contract is filed or recorded in the registry of deeds for the
11 county or district where such land lies, to secure the payment of
12 all labor and material which shall thereafter be furnished by
13 virtue of said contract.

14 SECTION 3. Said chapter 254 is hereby further amended by
15 inserting after section 2 the following section:—

16 *Section 2A.* The term “contractor” shall include a registered
17 architect or a registered engineer, a registered land surveyor
18 having a written contract with the owner for the design of a
19 building or structure or part of such building or structure and the
20 term “sub-contractor” shall include a registered architect, a
21 registered engineer, a registered land surveyor who performs
22 work for a contractor when used in this chapter.

