

By Mr. Mann of Hanson, petition of Charles W. Mann, other members of the House and another relative to promoting the prompt payment by the Commonwealth for goods and services. State Administration.

The Commonwealth of Massachusetts

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

AN ACT PROMOTING THE PROMPT PAYMENT BY THE COMMONWEALTH FOR GOODS AND SERVICES PROPERLY ORDERED THEREBY.

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

1 Chapter 29 of the General Laws is hereby amended by adding at
2 the end of section 29B thereof a new section as follows: —

3 *Section 29C.* In accordance with regulations promulgated by
4 the Secretary of Administration, and except as otherwise provided
5 for by any other general or special law, each agency of the legisla-
6 tive, executive and judicial branches of the government of the
7 Commonwealth which acquires property or services from a busi-
8 ness concern but which acquires property or services from a busi-
9 ness concern but which does not make payment for each such
10 complete delivered item of property or service by the required
11 payment date shall pay an interest penalty to such business concern
12 in accordance with this section on the amount of payment which is
13 due. Such regulations shall specify the following: —

14 (A) that the required payment date shall be: —

15 (1) the date on which payment is due under the terms of the
16 contract for the provision of such property or services; or,

17 (2) not more than thirty (30) working days after receipt of a
18 proper invoice for the amount of payment due, if a specific date on
19 which payment is due is not established by contract;

20 (B) that, within fifteen (15) working days after the date on which

21 any invoice is received, state agencies notify the business concern of
22 any defect or impropriety in such invoice which would prevent the
23 running of the time period specified in this section.

24 Interest payments on amounts due to a business concern for the
25 period beginning on the day after the required payment date and
26 shall end on the day after the required payment date and shall end
27 on the date on which payment of the amount is made, except no
28 interest payment shall be paid if payment for the item of property
29 or service concerned is made on or before the third day after the
30 required payment date.

31 Any amount of interest payment which remains unpaid at the
32 end of any thirty day period shall be added to the principle amount
33 of the debt and thereafter interest penalties shall accrue on such
34 added amount.

35 This section does not authorize the appropriation of additional
36 funds for the payment of interest penalties required hereunder. An
37 agency of the Commonwealth shall pay any interest penalties
38 required by this section out of funds appropriated for the admin-
39 stration or operation of the program for which the penalty was
40 incurred.

41 Interest penalties provided for under this section shall be com-
42 puted at a rate to be set semi-annually by the Secretary of Adminis-
43 tration on January 1 and July 1 of each year, providing however,
44 that such rate shall not be lower than 8% per annum.

45 Each agency of government in the Commonwealth shall file with
46 the Secretary of Administration a detailed report on any interest
47 penalties made under this section during the preceding fiscal year.
48 Such report shall include the number, amounts, frequency of inter-
49 est penalty payments, and the reasons such payments were not of
50 Administration not more than sixty days after the conclusion of
51 each fiscal year. The Secretary shall then file a copy of such reports
52 with the Committees on Ways and Means of the House of Repre-
53 sentatives and the Senate of the Commonwealth.

54 This section shall apply to all property or services acquired on or
55 after the first day of the month next succeeding the effective date of
56 the Act establishing this section or July 1, 1983, whichever comes
57 later and the Secretary of Administration shall promulgate such
58 regulations as required herein by such date. The provisions of this
59 section shall be enforceable by a suit brought in the Trial Court of
60 the Commonwealth.

61 Any regulation, or any amendment or repeal of any such regula-
62 tions shall, after compliance with all applicable provisions of this
63 chapter, be submitted to the general court for approval. The
64 agency shall file the proposed regulation, amendment or repeal
65 with the clerk of the house of representatives. Any regulation,
66 accompanied by a summary of the regulation in laymen's terms.
67 The clerk shall refer such regulation to the appropriate joint stand-
68 ing committee within five days of the filing thereof. The committee
69 shall consider the proposed regulation, amendment or repeal shall
70 not be subject to amendment by the general court.

71 The clerk of the senate shall cause any regulation, amendment or
72 repeal, approved by both branches of the general court within
73 seventy-five days from the time of the filing of the same with the
74 clerk of the house of representatives, to be forwarded to the gover-
75 nor for his approval; provided, that any such regulation, amend-
76 ment or repeal which is not approved by the general court and the
77 governor within ninety days of such filing shall be deemed to have
78 been disapproved.

79 If the governor approves any regulation, amendment or repeal
80 submitted to him, as hereinbefore provided, he shall forward the
81 same to the state secretary who shall publish the same.

82 Emergency regulations may be adopted during the prorogation
83 of the general court, provided, that such regulation shall be filed
84 with the clerk of the house of representatives for submission the
85 next session of the general court for approval as hereinbefore
86 provided; and provided, further that such regulation shall not
87 remain in force for more than ninety days after the general court
88 has convened for such session.

89 The state secretary shall not accept for filing any regulations or
90 any amendment or repeal of any regulation unless such regulation,
91 amendment or repeal has in addition to compliance with all appli-
92 cable provisions of this chapter, been approved by the general
93 court and the governor as provided in this section and has prepared
94 a summary in laymen's terms which is filed therewith.

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