WEST VIRGINIA CODE CHAPTER 14 ARTICLE 3

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§14-3-1. Payment of interest by the state on contracts when final payment is delayed.

All public contracts let in accordance with article three, chapter five-a of the code or let by the state Board of Education, the University of West Virginia board of trustees, the board of directors of the state college system, state armory board or by any other board, agency or commission of the state, entered into on and after March 1, 1969, and prior to July 1, 1991, except the state road commissioner, shall contain the following paragraph:

"Within ninety days after the completion of this contract is certified by the approving authority to be complete in accordance with terms of the plans or specifications, or both where appropriate, or is accepted by the authorized spending officer as complete, or is occupied by the owner, or is dedicated for public use by the owner, whichever occurs first, the balance due the contractor herein shall be paid in full. Should such payment be delayed for more than ninety days beyond the day the completion of this contract is certified by the authorized spending officer or is accepted by the owner as complete, or is occupied by the owner, or is dedicated for public use by the owner, said contractor shall be paid interest, beginning on the ninety-first day, at the current rate, as determined by the State Tax Commissioner under the provisions of section seventeen-a, article ten, chapter eleven of this code per annum on any unpaid balance: Provided, That whenever the approving authority reasonably determines that delay in completing the contract or in accepting payment for the contract is the fault of the contractor herein, the approving authority may accept and use the commodities or printing or the project may be occupied by the owner or dedicated for public use by the owner without payment of any interest on amounts withheld past the ninety-day limit."

All public construction contracts relating to roads or bridges let by the commissioner of the Division of Highways, entered into on and after March 1, 1969, and prior to July 1, 1991, shall contain the following paragraph:

"Within one hundred fifty days after the approving authority notifies the contractor, in writing, of the final acceptance by such approving authority of the project for which this contract provides, the balance due the prime contractor shall be paid in full. Should such payment be delayed for more than one hundred fifty days beyond the date that the approving authority notifies the contractor of the final acceptance of the project in accordance with the terms of the contract and the plans and specifications thereof, said prime contractor shall be paid interest, beginning on the one hundred fifty-first day, at the current rate, as determined by the State Tax Commissioner under the provisions of section seventeen-a, article ten, chapter eleven of this code per annum on such unpaid balance: Provided, That if the prime contractor does not agree to the amount of money determined by the approving authority to be due and owing to the prime contractor and set forth on the final estimate document, and the approving authority makes an offer to pay the amount of the final estimate to the said prime contractor, then the prime contractor shall not be entitled to receive any interest on the amount set forth in said final estimate, but shall only be entitled to the payment of interest current rate, as determined by the State Tax Commissioner under the provisions of

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section seventeen-a, article ten, chapter eleven of this code per annum on the amount of money finally determined to be due and owing to the said prime contractor, less the amount of the final estimate that the approving authority had originally offered to pay to the said prime contractor."

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§14-3-2. Approving authority.

The approving authority provided for in section one of this article shall be the contracting state board, agency or commission or its authorized spending officer; except, in the case of contracts let by the state road commissioner relating to roads and bridges, the approving authority shall be the state highway engineer.

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§14-3-3. Source of funds for payment of interest.

Payment of interest as provided by this article shall be made from the same appropriation or other source from which the principal debt under the contract is to be paid.

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