WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969

ENROLLED
SENATE BILL NO. 123

(By Mr. , Mr. President,
original sponsor)

PASSED March 5, 1969

In Effect... Ninety days from Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-12-69
AN ACT to amend chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article three, relating to payment of interest on public construction contracts when final payment is delayed.

Be it enacted by the Legislature of West Virginia:

That chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three, to read as follows:
ARTICLE 3. INTEREST ON PUBLIC CONTRACTS.

§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, West Virginia Board of Regents, state armory board, or by any other board, agency or commission of the state, entered into on and after March one, one thousand nine hundred sixty-nine, 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 rate of six per centum 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 state road commissioner, entered into on and after March one, one thousand nine hundred sixty-nine, 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
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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, be-
ginning on the one hundred fifty-first day, at the rate of
six per centum per annum on such unpaid balance: Pro-
vided, 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 author-
ity makes on 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 at the rate of six per centum
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.”
§14-3-2. Approving authority.

1 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.

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

1 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tampal
Chairman Senate Committee

Clayton E. Davidman
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

John H. Meyer
Clerk of the Senate

A. A. Blankenship
Clerk of the House of Delegates

H. W. Jackson
Président of the Senate

W. D. Brewer
Speaker House of Delegates

The within approved this the 12th day of March, 1969.

Andrew Young, Jr.
Governor
PRESENTED TO THE GOVERNOR

Date 3/13/69

Time 3:15 p.m.