HOUSE . . . . No. 4308

The Commonwealth of Massachusetts

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**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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An Act relative to timely public payments for work not included in original construction contracts.

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 amended by adding the following

2   section:-

3   Section 39U. Payment for Work Not Included in the Original Contract

4   Every contract subject to section 44A of chapter 149 or subject to section 39M of chapter

5   30 or subject to chapter 149A, and every subcontract or trade contract as applicable, shall

6   provide a reasonable time period within which a written request submitted by a person seeking

7   an increase in the contract price shall be approved or rejected, whether in whole or in part. The

8   time period shall not exceed 30 days after the later of commencement of the performance of the

9   work on which the request is based or submission of the written request; provided, however, that

10   the time period, as applicable to approval or rejection by the person at each tier of contract below

11   the owner of the project, may be extended by 7 days more than the time period applicable to the

12   person at the tier of contract above the person. A request which is neither approved nor rejected

13   within such time period shall be deemed to be approved and may be submitted for payment

14   within the next application for a periodic progress payment, unless it is rejected before the date

15   payment if due. A rejection of a request, whether in whole or in part, shall be made in writing,

16   shall include an explanation of the factual and contractual basis for the rejection and shall be

17   certified as made in good faith. A rejection of a request shall be subject to the applicable dispute

18   resolution procedure. A provision in the contract which requires a party to delay commencement

19   of the procedure until a date later than 60 days after the rejection shall be void and

20   unenforceable.