

HOUSE No. 1703

The Commonwealth of Massachusetts

PRESENTED BY:

John H. Rogers

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to default insurance programs for certain public construction projects.

PETITION OF:

NAME:

John H. Rogers

DISTRICT/ADDRESS:

12th Norfolk

HOUSE No. 1703

By Mr. Rogers of Norwood, a petition (accompanied by bill, House, No. 1703) of John H. Rogers relative to default insurance programs for certain public construction projects. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2808 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to default insurance programs for certain public construction projects.

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. Section 8 (a) of Chapter 149A of the General Laws as appearing in the 2012
2 Official Edition is hereby amended by striking out paragraph 2 and inserting in place thereof the
3 following new paragraph:-

4 All trade contracts entered into in accordance with this chapter shall be secured by
5 performance and payment bonds in the full amount of the trade contract from a surety company
6 licensed to do business in the commonwealth and whose name appears on United States Treasury
7 Department Circular 570; provided that the bonds are subject to subsection (3) of section 44F of
8 chapter 149 except for those subcontracts subject to a subcontractor default insurance policy
9 obtained by the construction management at risk firm. The construction manager at risk firm
10 shall have the option to obtain a subcontractor default insurance policy in lieu of payment and

11 performance bonds for some or all trade contractors. The intention to use a subcontractor default
12 insurance policy shall be made known by the construction manager at risk firm and the awarding
13 authority after the receipt of trade contractor bids pursuant to subsection (g) of this section. Any
14 trade contractor not covered through the subcontractor default insurance policy program must
15 submit a payment and performance bond at no additional cost to the construction manager at risk
16 firm or the awarding authority. All trade contractor bidders shall include anticipated bonding
17 costs in their bids and, in the event of inclusion in a subcontractor default insurance program,
18 trade contractors shall remit to the construction manager at risk firm a credit equivalent to those
19 anticipated bonding costs.