

SENATE No. 1694

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

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 the definition of fraud in public construction bid laws.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Christopher M. Markey</i>	<i>9th Bristol</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>

SENATE No. 1694

By Mr. Moore, a petition (accompanied by bill, Senate, No. 1694) of Michael O. Moore, Leonard Mirra, Mary S. Keefe, Chris Walsh and other members of the General Court for legislation to define fraud in the public bidding process. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1507 OF 2013-2014.]

The Commonwealth of Massachusetts

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**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**
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An Act relative to the definition of fraud in public construction bid laws.

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. Subsection (a) of section 39M of chapter 30 of the General Laws, as
2 appearing in the 2012 Official Edition, is hereby amended by striking out, in lines 21 to 23, the
3 words “The undersigned certifies under penalties of perjury that this bid is in all respects bona
4 fide, fair and made without collusion or fraud with any other person” and inserting in place
5 thereof the following words:-

6 The undersigned certifies under penalties of perjury that this bid is in all respects bona
7 fide, fair and made without collusion with any other person or fraud. As used in this paragraph
8 the word “fraud” shall mean a statement, act or omission relating to a material fact that (i) has
9 the natural tendency to be relied upon by or to influence the average person, (ii) is knowingly

10 false or misleading or is in reckless disregard of its truth or falsity and (iii) is intended to
11 mislead, regardless of whether the statement, act or omission is actually relied upon.

12 SECTION 2. Section 44A of chapter 149 of the General Laws, as so appearing, is hereby
13 amended by inserting after the definition of “Eligible” the following definition:-

14 “Fraud”, a statement, act or omission relating to a material fact that (i) has the natural
15 tendency to be relied upon by or to influence the average person, (ii) is knowingly false or
16 misleading or is in reckless disregard of its truth or falsity and (iii) is intended to mislead,
17 regardless of whether the statement, act or omission is actually relied upon.

18 SECTION 3. Section 2 of chapter 149A of the General Laws, as so appearing, is hereby
19 amended by inserting after the definition of “Designer” the following definition:-

20 “Fraud”, a statement, act or omission relating to a material fact that (i) has the natural
21 tendency to be relied upon by or to influence the average person, (ii) is knowingly false or
22 misleading or is in reckless disregard of its truth or falsity and (iii) is intended to mislead,
23 regardless of whether the statement, act or omission is actually relied upon.

24 SECTION 4. Clause (6) of section 19 of said chapter 149A of the General Laws, as so
25 appearing, is hereby amended by striking out the third sentence and inserting in place thereof the
26 following 2 sentences:-

27 Any person submitting a bid under this section shall, on such bid, certify as follows: The
28 undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and
29 made without collusion with any other person or fraud. As used in this paragraph the word
30 “fraud” shall mean a statement, act or omission relating to a material fact that (i) has the natural

31 tendency to be relied upon by or to influence the average person, (ii) is knowingly false or
32 misleading or is in reckless disregard of its truth or falsity and (iii) is intended to mislead the
33 prequalification committee or awarding authority.