

HOUSE No. 3044

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to Construction Supervisor Services..

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. This Act may be cited as the Construction Supervisor Act

2 Chapter 143 of the General Laws, as appearing in the 2006 Official Edition is hereby
3 amended by inserting after section 94 the following section:-

4 Section 94A. Licensed Construction Supervisors Services

5 Section 2. Definitions

6 For the purposes of this section the following words shall have the following meanings
7 unless the context clearly requires otherwise—:

8 “Contract for construction supervisor services “ .Every agreement to perform contracting
9 services requiring a construction supervisor shall be in writing and include the following
10 documents and information including but not limited to educational materials for distribution to
11 property owners prepared by the Board of Building Regulations and Standards.

12 “Licensed construction supervisor” any individual directly supervising persons engaged
13 in construction, reconstruction, alteration, repair, removal or demolition involving any activity
14 regulated by any provision of Mass Code of Regulations(CMR) such terms shall also apply to
15 persons supervising themselves. A licensed construction supervisor shall be required for the
16 installation of all manufactured one and two family homes. as defined in 780 CMR R.5.

17 “Payment Bond” is a bond, defined by requirements set forth in section 12, chapter 254
18 of the General Laws.

19 Section 3. The Board of Building Regulations and Standards hereinafter known as the
20 Board shall establish a Licensed Construction Supervisor Advisory Committee, comprised of no
21 less than 5 members as follows: not less than one member of the Board of Building Regulations
22 and Standards (BBRS); not less than one licensed construction supervisor; two representatives,
23 of residential property owner organizations, nominated by residential property owners
24 organization; one representative from sub trade work designated in section 44f of chapter 149 of
25 the General Laws

26 Board shall have the right to reappoint all members each year and each advisory
27 committee member may serve indefinitely.

28 1. Licensed Construction Supervisor Advisory Committee shall have the following
29 powers and duties:

30 a. To act as a liaison to the board on issues regarding licensed construction supervisors,
31 including contractual disputes.

32 b. To report to the board annually on issues relating to licensed construction supervisors
33 and property owners.

34 c. To identify common disputes between licensed construction supervisors and
35 property owners, including contractual disputes and present these common disputes in a
36 committee report to the board.

37 d. To prepare educational materials, using consumer friendly language for distribution to
38 all licensed construction supervisors for distribution to property owners contracting for
39 construction services, including but not limited to: Chapter 254, specifically sections 4 and 12.

40 Defining a mechanic's lien, and the effects it may have on an owner's property in the
41 Commonwealth. Defining a payment bond, under chapter 254, section 12. Establishing a
42 "Payment Bond Option Form" providing property owners a means to elect as part of a contract
43 for construction supervisor services, a payment bond, pursuant to chapter 254 section 12,

44 2. The advisory committee shall ensure that the Payment Bond Option Form:

45 Requires the property owner's signature and date signifying receipt of the educational
46 materials, prior to signing a contract for construction services.

47 Requires the property owner to "elect" or "not elect" to require a payment bond,
48 indicated by the property owner's signature next to either choice

49 States that the construction supervisor must file this form in the registry of deeds where
50 the property lies

51 States the amount of the proposed contract for construction services

52 Describes the property subject of the proposed contract for construction services

53 Requires the construction supervisor's signature acknowledging that if the property
54 owner requires a bond then the construction supervisor must obtain a bond as described in
55 chapter 254 section 12, upon entering into the construction contract.

56 Requires the construction supervisors' signature acknowledging the fact that failure to
57 obtain a payment bond required by the property owner upon entry into the contract will
58 constitute a willful violation of the "Payment Bond Option Requirement," subject to prosecution
59 by the attorney general and punishment of a maximum fine of two thousand dollars or maximum
60 term of imprisonment of one year or both.

61 3. Additional board duties

62 The board shall provide every licensed construction supervisor with:

63 Educational materials for distribution to property owners.

64 Payment Bond Option Form for distribution to property owners.

65 Notice of this amendment to chapter 143.

66 require construction supervisors to:

67 Provide the educational materials described in b(iv)a to any property owner the
68 construction supervisor intends to contract with for construction services.

69 Provide the materials prior to entry into any contract for construction services and obtain
70 the property owner's signature on the bond option form indicating such receipt.

71 File at least one copy of the “Payment Bond Option form” in the registry of deeds for the
72 county or district where such land lies that is the subject of the contract between a property
73 owner and the construction supervisor to receive construction supervisor services.

74 Provide the following section as penalty for violation of any of the above provisions of
75 the section entitled “Payment Bond Option Requirement”

76 The attorney general or the district attorney may prosecute any person who knowingly
77 and willfully violates any of the provisions of this chapter, with a maximum fine of two thousand
78 dollars or maximum term of imprisonment of one year, or both. If a greater penalty is provided
79 by the provisions of this chapter or by any other law, then the greater penalty applies.

80 Such fines and imprisonment shall be in addition to any penalty given by the board.

81 f. To hold public advisory committee meetings after 5 p.m. at least once every six
82 months.

83 g . To establish and maintain records of actions and procedures in accordance with the
84 public records laws.

85 h. To perform such other functions and duties as may be necessary to carry out the
86 provisions of this chapter.

87 i. The Board shall promulgate and enforce the provisions of the chapter as amended.

88 Section 4. Chapter 254 of the General Laws, as appearing in the 2006 Official Edition is
89 hereby amended by adding after section 12 the following section:—

90 Section 12A. Payment Bond Option Form Presumption

91 For the purposes of this section the following words shall have the following meanings
92 unless the context clearly requires otherwise—:

93 “Payment Bond” is defined by requirements set forth in section 12, chapter 254 of the
94 Mass General Laws.

95 Payment Bond Option Form” is defined as the form established in section 94A,
96 require construction supervisors to

97 Provide the educational materials described in section 1d to any property owner the
98 construction supervisor intends to contract with for construction services.

99 Provide the materials prior to entry into any contract for construction services and obtain
100 the property owner’s signature on the bond option form indicating such receipt.

101 File at least one copy of the “Payment Bond Option form” in the registry of deeds for the
102 county or district where such land lies that is the subject of the contract between a property
103 owner and the construction supervisor to receive construction supervisor services.

104 Provide the following section as penalty for violation of any of the above provisions of
105 the section entitled “Payment Bond Option Requirement”

106 The attorney general or the district attorney may prosecute any person who knowingly
107 and willfully violates any of the provisions of this chapter, with a maximum fine of two thousand
108 dollars or maximum term of imprisonment of one year, or both. If a greater penalty is provided
109 by the provisions of this chapter or by any other law, then the greater penalty applies.

110 Such fines and imprisonment shall be in addition to any penalty given by the board.

111 c. The registry of deeds in the county or district where the land identified in the Payment
112 Bond Option Form lies, shall not allow attachment of any lien under section four of this chapter
113 on the identified land if the property owner contracting for licensed construction supervisor
114 services, as defined in 780 CMR R5, required a bond as described in section 12, chapter 254 by
115 signifying this requirement on the Payment Bond Option Form.

116 d. If a licensed construction supervisor fails to file a Payment Bond Option Form in
117 conjunction with a contract to provide construction services, a presumption arises that the
118 property owner required a bond as described in section twelve, and all such rights as the property
119 owner had under section twelve shall apply.

120 e. If a property owner signifies in a Payment Bond Option Form a requirement of a bond
121 as described in section twelve, but the licensed construction supervisor failed to procure such a
122 bond, the registry of deeds in the county or district where the land identified in the Payment
123 Bond Option Form lies shall not allow attachment of any lien under section four of this chapter
124 on the identified land. The property owner shall receive the benefits of a bond, as described
125 under b.