

HOUSE No. 3889

The Commonwealth of Massachusetts

PRESENTED BY:

Gailanne M. Cariddi

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 creating the state guarantee fund for default on public construction surety bond payments.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>	<i>11/19/2015</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>11/23/2015</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>11/20/2015</i>

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By Ms. Cariddi of North Adams, a petition (subject to Joint Rule 12) of Gailanne M. Cariddi, Tricia Farley-Bouvier and William Smitty Pignatelli for legislation to establish the public construction surety bond state guarantee fund. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act creating the state guarantee fund for default on public construction surety bond payments.

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 . Chapter 175 of the General Laws is hereby amended by adding the following
2 section:1

3 Section 226. (a) As used in this section the following words shall, unless the context
4 clearly requires otherwise, have the following meanings:-

5 “Defaulting issuer”, an issuer who has failed to pay a claim after having been found liable
6 for a surety bond by a court of competent jurisdiction.

7 “Fund”, the Public Construction Surety Bond State Guarantee Fund established by
8 subsection (d).

9 “Issuer”, any person issuing a bond pursuant to chapter 149A.

“Person”, a natural person or legal entity including, but not limited to, a partnership, limited liability company, association, trust or corporation.

“Purchaser”, a person who purchases a surety bond for a building project as defined in section 2 of chapter 149A.

(b) Any person issuing a bond in the commonwealth pursuant to chapter 149A shall first register such activity with the division of insurance in a form required by the commissioner. The commissioner shall collect a fee for such registration in an amount not more than \$10,000 annually. Any fee collected by the commissioner shall be deposited in the fund established in subsection (c) for payment to a qualifying purchaser as further defined by the commissioner.

(c) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Public Construction Surety Bond State Guarantee Fund, to make payments to qualifying purchasers. There shall be credited to the fund the registration fee collected by the commissioner pursuant to subsection (b). All amounts in the fund shall be available for expenditure by the commissioner for payment to qualifying purchasers in accordance with this section. No expenditure from the fund shall cause the fund to be in deficiency at the close of a fiscal year. Monies deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

(e) Any issuer who fails to register prior to engaging in the issuance of a bond pursuant to this section shall be subject to a fine payable to the commissioner of not less than \$50,000 and not more than \$150,000.

31 (f) The commissioner shall promulgate regulations to implement the purposes of this
32 section.

33 SECTION 2. This act shall apply to any claim by a qualifying purchaser, pursuant to
34 section 1, on or after January 1, 2012.