

SENATE No. 1006

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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 to promote consistency and transparency in construction contracting.

PETITION OF:

NAME:

Karen E. Spilka

DISTRICT/ADDRESS:

Second Middlesex and Norfolk

SENATE No. 1006

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 1006) of Karen E. Spilka for legislation to promote consistency and transparency in construction contracting. Labor and Workforce Development.

The Commonwealth of Massachusetts

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

An Act to promote consistency and transparency in construction contracting.

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 29F of Chapter 149 of the General Laws, as appearing in the most
2 recent edition, is hereby amended by striking out all after the enacting clause and inserting in
3 place thereof the following:

4 Section 29F. (a) As used in this section, the following words shall have the following
5 meanings unless the context clearly requires otherwise:

6 “Contract for construction”, a contract, which provides for retainage to be held in full
7 until substantial completion, for which a lien may be established under sections 2 or 4 of chapter
8 254, on a project for which the person whose contract with the project owner has an original
9 contract price of not less than \$3,000,000; provided, however, that contract for construction shall
10 not include a project containing or designed to contain at least 1 but not more than 4 dwelling
11 units, and provided further, shall not include any contract for a project that is financed or
12 supported in whole or in part by state or federal mortgage assistance, special taxing

13 arrangements, tax credits, grants, issuance of bonds, loans, loan guarantees, debt or equity
14 assistance.

15 “Retainage”, a portion or percentage of payment due pursuant to a contract for
16 construction that is withheld to ensure full performance of the contract for construction.

17 (b) No contract for construction shall include retainage that exceeds 5 per cent of the
18 contract price.

19 (c) A provision in a contract for construction which purports to require or permit
20 retainage in excess of 5% of the contract price shall be void and unenforceable insofar as any
21 such excess is concerned.

22 SECTION 2. Notwithstanding any general or special law to the contrary, section 29F of
23 chapter 149 of the General Laws shall not apply to a contract for construction relating to a
24 project for which the owner's contract was entered into prior to the effective date of this act.