

HOUSE No. 1490

The Commonwealth of Massachusetts

PRESENTED BY:

John J. Lawn, Jr.

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 notice of identification.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>1/14/2019</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>1/25/2019</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>	<i>1/25/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/30/2019</i>
<i>James M. Kelcourse</i>	<i>1st Essex</i>	<i>2/1/2019</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>2/1/2019</i>

HOUSE No. 1490

By Mr. Lawn of Watertown, a petition (accompanied by bill, House, No. 1490) of John J. Lawn, Jr., and others relative to notice of identification for certain constructions projects. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to notice of identification.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 254, Section 4 is hereby amended by adding at the end thereof the following new
2 text:

3 With respect to any construction project containing or designed to contain one but not
4 more than four dwelling units, if the person claiming a lien under this section, has a direct
5 contractual relationship with the original contractor but no direct contractual relationship with
6 the owner, except for liens for labor by persons defined in section 1 of this chapter, the amount of
7 such lien shall not exceed the amount due or to become due under the original contract between
8 the original owner and the original contractor as of the date such person files his notice of
9 contract and gives actual notice to the owner of such filing, unless the person claiming such lien
10 has, within thirty days of commencement of his performance, given written notice of
11 identification by certified mail return receipt requested to the owner in substantially the
12 following form:

13 Notice of Identification

14 Notice is hereby given to _____, as owner, that _____, as
15 subcontractor/vendor/design professional, has entered into a written contract with
16 _____ to furnish labor or materials, or labor and materials, or rental equipment,
17 appliances or tools to, or to perform professional services for a certain construction project
18 located at ___ (Street Address), ___ (Town or City), Massachusetts. The amount or estimated
19 amount of said contract is \$ _____. (No amount need be stated for contracts for the rental of
20 equipment, appliances or tools).

21 This notice is to advise you of your rights under Massachusetts law in connection with
22 the improvement to your property. If we are not paid by your contractor, we can file a lien
23 against your property for the price of our labor or materials. You have the right to pay us directly
24 and deduct this amount from the contract price, or withhold the amounts due from your
25 contractor until 90 days after completion of the improvement unless your contractor gives you a
26 lien waiver signed by me (us).

27 The amount stated in any such notice of identification shall not limit the amount of the
28 lien. Any inaccuracy in the naming of the contractor or other information in such notice shall not
29 affect its validity provided there shall be actual notice.

30 If said notice of identification is given by the person claiming the lien to the owner, the
31 amount of the lien shall not exceed the amount due or to become due under the original contract
32 as of the date the owner receives the notice of identification.

33 Any person asserting that a lien under this section exceeds the amount due or to become
34 due as defined in section 2A, whether under the original contract or a subcontract, shall have the
35 burden of proving the amount due or to become due.