HOUSE . . . . No. 3333

The Commonwealth of Massachusetts

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PRESENTED BY:

Ann-Margaret Ferrante

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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.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Ann-Margaret Ferrante	5th Essex	1/17/2025
Lindsay N. Sabadosa	1st Hampshire	1/30/2025
Brian W. Murray	10th Worcester	1/30/2025
James K. Hawkins	2nd Bristol	1/30/2025
Frank A. Moran	17th Essex	1/30/2025
Susannah M. Whipps	2nd Franklin	1/30/2025
Jason M. Lewis	Fifth Middlesex	1/30/2025
Patrick Joseph Kearney	4th Plymouth	1/30/2025
Mindy Domb	3rd Hampshire	1/30/2025
Erika Uyterhoeven	27th Middlesex	1/30/2025
Colleen M. Garry	36th Middlesex	1/30/2025
Michael D. Brady	Second Plymouth and Norfolk	2/26/2025
Christopher M. Markey	9th Bristol	2/26/2025
Danillo A. Sena	37th Middlesex	2/26/2025
James B. Eldridge	Middlesex and Worcester	2/26/2025
Tara T. Hong	18th Middlesex	2/26/2025
Bruce E. Tarr	First Essex and Middlesex	3/13/2025
Antonio F. D. Cabral	13th Bristol	3/13/2025

HOUSE . . . . No. 3333

By Representative Ferrante of Gloucester, a petition (accompanied by bill, House, No. 3333) of Ann-Margaret Ferrante and others relative to the definition of fraud in public construction bid laws. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *3030* OF 2023-2024.]

The Commonwealth of Massachusetts

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**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

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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 2014 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 person and contains no intentional

8   misrepresentations, omissions or false statements. As used in this paragraph the word "person"

9   shall mean any natural person, joint venture, partnership, corporation or any other business or

10   legal entity.

11   SECTION 2. Section 44A of chapter 149 of the General Laws, as so appearing, is hereby

12   amended by inserting after the definition of " Eligible" the following definition:-

13   "Fraud", a statement, act or omission relating to a material fact that (i) has the natural

14   tendency to be relied upon by or to influence the average person, (ii) is knowingly false or

15   misleading or is in reckless disregard of its truth or falsity and (iii) is intended to mislead,

16   regardless of whether the statement, act or omission is actually relied upon;

17   And further, by striking the definition of "responsible" and inserting in place thereof the

18   following new definition:-

19   ""Responsible" means demonstrably possessing the skill, ability and integrity necessary

20   to faithfully perform the work called for by a particular contract, based upon a determination of

21   competent workmanship and financial soundness in accordance with the provisions of section

22   forty-four D of this chapter and shall certify that his bid contains now misrepresentations,

23   omissions, or false statements."

24   SECTION 3. Section 2 of chapter 149A of the General Laws, as so appearing, is hereby

25   amended by inserting after the definition of "Designer" the following definition:-

26   "Fraud", a statement, act or omission relating to a material fact that (i) has the natural

27   tendency to be relied upon by or to influence the average person, (ii) is knowingly false or

28   misleading or is in reckless disregard of its truth or falsity and (iii) is intended to mislead,

29   regardless of whether the statement, act or omission is actually relied upon.

30   SECTION 4. Section 19 of said chapter 149A of the General Laws, as so appearing, is

31   hereby amended by striking out the clause six in its entirety, and replacing it with the following:-

32   "(6) The RFP shall require that every response shall be accompanied by a bid deposit in

33   the form of a bid bond, or cash, or a certified check on, or a treasurer's or cashier's check issued

34   by a responsible bank or trust company, payable to the awarding authority. The amount of such

35   bid deposit shall be 5 per cent of the value of the bid. Any person submitting a bid under this

36   sections hall, on such a bid, certify as follows:

37   The undersigned certifies under penalty of perjury that this bid is in all respects bona fide,

38   fair, made without collusion with any other person and contains no intentional material

39   misrepresentations, omissions or false statements. As used in this paragraph the word "person"

40   shall mean any natural person, joint venture, partnership, corporation or other business or legal

41   entity."

42   SECTION 5. Subsection (f) of section 8 of chapter 149A, as so appearing, is hereby

43   amended by striking the fourth sentence and replacing it with the following new language:-

44   "The decision of the prequalification committee shall be final and not subject to appeal

45   except on the grounds that a submission contains intentional, material misrepresentations,

46   omissions, or false statements, or of collusion."