SENATE . . . . . No. 2212

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

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:

SECTION 1. Subsection (a) of section 39M of chapter 30 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 21 to 23, the words "The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person" and inserting in place thereof the following words:-

The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion with any other person or fraud. As used in this paragraph the word "fraud" shall mean a statement, act or omission relating to a material fact that (i) has the natural tendency to be relied upon by or to influence the average person, (ii) is knowingly false or misleading or is in reckless disregard of its truth or falsity and (iii) is intended to mislead, regardless of whether the statement, act or omission is actually relied upon.

SECTION 2. Section 44A of chapter 149 of the General Laws, as so appearing, is hereby amended by inserting after the definition of " Eligible" the following definition:-

"Fraud", a statement, act or omission relating to a material fact that (i) has the natural tendency to be relied upon by or to influence the average person, (ii) is knowingly false or misleading or is in reckless disregard of its truth or falsity and (iii) is intended to mislead, regardless of whether the statement, act or omission is actually relied upon.

SECTION 3. Section 2 of chapter 149A of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Designer" the following definition:-

"Fraud", a statement, act or omission relating to a material fact that (i) has the natural tendency to be relied upon by or to influence the average person, (ii) is knowingly false or

22 misleading or is in reckless disregard of its truth or falsity and (iii) is intended to mislead,
23 regardless of whether the statement, act or omission is actually relied upon.

24 SECTION 4. Clause (6) of section 19 of said chapter 149A of the General Laws, as so
25 appearing, is hereby amended by striking out the third sentence and inserting in place thereof the
26 following 2 sentences:-

27 Any person submitting a bid under this section shall, on such bid, certify as follows: The
28 undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and
29 made without collusion with any other person or fraud. As used in this paragraph the word
30 "fraud" shall mean a statement, act or omission relating to a material fact that (i) has the natural
31 tendency to be relied upon by or to influence the average person, (ii) is knowingly false or
32 misleading or is in reckless disregard of its truth or falsity and (iii) is intended to mislead,
33 regardless of whether the statement, act or omission is actually relied upon.