

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Joyce A. Spiliotis

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 passage of the accompanying bill:

An Act Relative to Construction Supervisor Services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Joyce A. Spiliotis	12th Essex

1 Section 1. This Act may be cited as the Construction Supervisor Act

2

3 Chapter 143 of the General Laws, as appearing in the 2006 Official Edition is hereby amended by
4 inserting after section 94 the following section:-

5 Section 94A. Licensed Construction Supervisors Services

6

7 Section 2. Definitions

8

9 For the purposes of this section the following words shall have the following meanings unless
10 the context clearly requires otherwise—:

11

12 “Contract for construction supervisor services “ .Every agreement to perform contracting
13 services requiring a construction supervisor shall be in writing and include the following documents and
14 information including but not limited to educational materials for distribution to property owners
15 prepared by the Board of Building Regulations and Standards.

16

17 “Licensed construction supervisor” any individual directly supervising persons engaged in
18 construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by
19 any provision of Mass Code of Regulations(CMR) such terms shall also apply to persons supervising
20 themselves. A licensed construction supervisor shall be required for the installation of all manufactured
21 one and two family homes. as defined in 780 CMR R.5.

22

23 “Payment Bond” is a bond, defined by requirements set forth in section 12, chapter 254 of the
24 General Laws.

25

26 Section 3. The Board of Building Regulations and Standards hereinafter known as the Board shall
27 establish a Licensed Construction Supervisor Advisory Committee, comprised of no less than 5 members
28 as follows: not less than one member of the Board of Building Regulations and Standards (BBRS); not
29 less than one licensed construction supervisor; two representatives, of residential property owner
30 organizations, nominated by residential property owners organization; one representative from sub
31 trade work designated in section 44f of chapter 149 of the General Laws

32

33 Board shall have the right to reappoint all members each year and each advisory committee member
34 may serve indefinitely.

35

36 1. Licensed Construction Supervisor Advisory Committee shall have the following powers and
37 duties:

38 a. To act as a liaison to the board on issues regarding licensed construction supervisors,
39 including contractual disputes.

40

41 b. To report to the board annually on issues relating to licensed construction supervisors and
42 property owners.

43

44 c. To identify common disputes between licensed construction supervisors and property
45 owners, including contractual disputes and present these common disputes in a committee report to
46 the board.

47

48 d. To prepare educational materials, using consumer friendly language for distribution to all
49 licensed construction supervisors for distribution to property owners contracting for construction
50 services, including but not limited to: Chapter 254, specifically sections 4 and 12.

51 Defining a mechanic's lien, and the effects it may have on an owner's property in the Commonwealth.
52 Defining a payment bond, under chapter 254, section 12. Establishing a "Payment Bond Option
53 Form" providing property owners a means to elect as part of a contract for construction supervisor
54 services, a payment bond, pursuant to chapter 254 section 12,

55

56 2. The advisory committee shall ensure that the Payment Bond Option Form:

57

58 Requires the property owner's signature and date signifying receipt of the educational
59 materials, prior to signing a contract for construction services.

60

61 Requires the property owner to "elect" or "not elect" to require a payment bond, indicated by
62 the property owner's signature next to either choice

63

64 States that the construction supervisor must file this form in the registry of deeds where the
65 property lies

66

67 States the amount of the proposed contract for construction services

68

69 Describes the property subject of the proposed contract for construction services

70

71 Requires the construction supervisor's signature acknowledging that if the property owner
72 requires a bond then the construction supervisor must obtain a bond as described in chapter 254
73 section 12, upon entering into the construction contract.

74

75 Requires the construction supervisors' signature acknowledging the fact that failure to obtain a
76 payment bond required by the property owner upon entry into the contract will constitute a willful
77 violation of the "Payment Bond Option Requirement," subject to prosecution by the attorney
78 general and punishment of a maximum fine of two thousand dollars or maximum term of
79 imprisonment of one year or both.

80

81 3. Additional board duties

82

83 The board shall provide every licensed construction supervisor with:

84

a. Educational materials for distribution to property owners.

85

b. Payment Bond Option Form for distribution to property owners.

86

c. Notice of this amendment to chapter 143.

87

88

d. require construction supervisors to:

89

i. Provide the educational materials described in b(iv)a to any property owner the
construction supervisor intends to contract with for construction services.

90

ii. Provide the materials prior to entry into any contract for construction services
and obtain the property owner's signature on the bond option form indicating
such receipt.

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iii. File at least one copy of the "Payment Bond Option form" in the registry of
deeds for the county or district where such land lies that is the subject of the

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96 contract between a property owner and the construction supervisor to receive
97 construction supervisor services.
98

99 e. Provide the following section as penalty for violation of any of the above
100 provisions of the section entitled "Payment Bond Option Requirement"
101

- 102 i. The attorney general or the district attorney may prosecute any person who
103 knowingly and willfully violates any of the provisions of this chapter, with a
104 maximum fine of two thousand dollars or maximum term of imprisonment of
105 one year, or both. If a greater penalty is provided by the provisions of this
106 chapter or by any other law, then the greater penalty applies.
- 107 ii. Such fines and imprisonment shall be in addition to any penalty given by the
108 board.
109

110 f. To hold public advisory committee meetings after 5 p.m. at least once every six months.
111

112 g . To establish and maintain records of actions and procedures in accordance with the public
113 records laws.
114

115 h. To perform such other functions and duties as may be necessary to carry out the provisions
116 of this chapter.
117

118 i. The Board shall promulgate and enforce the provisions of the chapter as amended.
119

120 Section 4. Chapter 254 of the General Laws, as appearing in the 2006 Official Edition is hereby amended
121 by adding after section 12 the following section:—
122

123 Section 12A. Payment Bond Option Form Presumption
124

125 For the purposes of this section the following words shall have the following meanings unless
126 the context clearly requires otherwise—:
127

128 "Payment Bond" is defined by requirements set forth in section 12, chapter 254 of the Mass
129 General Laws.

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131 (1) "Payment Bond Option Form" is defined as the form established in section 94A,

132 a. require construction supervisors to

133 i. Provide the educational materials described in section 1d to any property
134 owner the construction supervisor intends to contract with for construction
135 services.

136

137 ii. Provide the materials prior to entry into any contract for construction services
138 and obtain the property owner's signature on the bond option form indicating
139 such receipt.

140

141 iii. File at least one copy of the "Payment Bond Option form" in the registry of
142 deeds for the county or district where such land lies that is the subject of the
143 contract between a property owner and the construction supervisor to receive
144 construction supervisor services.

145

146 b. Provide the following section as penalty for violation of any of the above provisions of
147 the section entitled "Payment Bond Option Requirement"

148 i. The attorney general or the district attorney may prosecute any person who
149 knowingly and willfully violates any of the provisions of this chapter, with a
150 maximum fine of two thousand dollars or maximum term of imprisonment of
151 one year, or both. If a greater penalty is provided by the provisions of this
152 chapter or by any other law, then the greater penalty applies.

153

154 ii. Such fines and imprisonment shall be in addition to any penalty given by the
155 board.

156

157 c. The registry of deeds in the county or district where the land identified in the Payment Bond Option
158 Form lies, shall not allow attachment of any lien under section four of this chapter on the identified land
159 if the property owner contracting for licensed construction supervisor services, as defined in 780 CMR
160 R5, required a bond as described in section 12, chapter 254 by signifying this requirement on the
161 Payment Bond Option Form.

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163 d. If a licensed construction supervisor fails to file a Payment Bond Option Form in conjunction with a
164 contract to provide construction services, a presumption arises that the property owner required a bond

165 as described in section twelve, and all such rights as the property owner had under section twelve shall
166 apply.

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168 e. If a property owner signifies in a Payment Bond Option Form a requirement of a bond as described in
169 section twelve, but the licensed construction supervisor failed to procure such a bond, the registry of
170 deeds in the county or district where the land identified in the Payment Bond Option Form lies shall not
171 allow attachment of any lien under section four of this chapter on the identified land. The property
172 owner shall receive the benefits of a bond, as described under b.

173 SECTION 1.This Act may be cited as the Construction Supervisor Act

174 SEPARATE =====

175 SECTION 2 Chapter 143 of the General Laws, as appearing in the 2006 Official Edition is hereby
176 amended by inserting after section 94 the following section:-

177 Section 94A

178 Licensed Construction Supervisors Services

179

180 (a) Definitions

181

182 For the purposes of this section the following words shall have the following meanings unless
183 the context clearly requires otherwise—:

184

185 “Contract for construction supervisor services “ .Every agreement to perform contracting
186 services requiring a construction supervisor shall be in writing and include the following documents and
187 information including but not limited to educational materials for distribution to property owners
188 prepared by the Board of Building Regulations and Standards.

189

190 “Licensed construction supervisor” any individual directly supervising persons engaged in
191 construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by
192 any provision of Mass Code of Regulations such terms shall also apply to persons supervising
193 themselves. A licensed construction supervisor shall be required for the installation of all manufactured
194 one and two family homes. as defined in 780 CMR R.5.

195

196 "Payment Bond" is a bond, defined by requirements set forth in section 12, chapter 254 of the
197 General Laws.

198

199 (b) The Board of Building Regulations and Standards hereinafter known as the Board shall establish a
200 Licensed Construction Supervisor Advisory Committee, comprised of no less than 5 members as follows

201 1. Not less than one member of the Board of Building Regulations and
202 Standards (BBRS)

203 2. Not less than one licensed construction supervisor

204 3. Two representatives, of residential property owner organizations,
205 nominated by residential property owners organizations

206 4. One representative from sub trade work designated in section 44f of
207 chapter 149 of the General Laws

208

209 Board shall have the right to reappoint all members each year and each advisory committee member
210 may serve indefinitely.

211

212 (c) Licensed Construction Supervisor Advisory Committee shall have the following powers and
213 duties:

214 a) To act as a liaison to the board on issues regarding licensed construction supervisors,
215 including contractual disputes.

216

217 b) To report to the board annually on issues relating to licensed construction supervisors and
218 property owners.

219

220 c) To identify common disputes between licensed construction supervisors and property
221 owners, including contractual dispute and present these common disputes in committee report to the
222 board.

223

224 d) To prepare educational materials, using consumer friendly language for distribution to all
225 licensed construction supervisors for distribution to property owners contracting for construction
226 services, including but not limited to:

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(1) Chapter 254, specifically sections 4 and 12.

(2) Defining a mechanic's lien, and the effects it may have on an owner's property in the Commonwealth

(3) Defining a payment bond, under chapter 254, section 12.

(4) Payment Bond Option Form providing property owners a means to elect as part of a contract for construction supervisor services, a payment bond, pursuant to chapter 254 section 12,

The advisory committee shall ensure that the Payment Bond Option Form:

a. requires the property owner's signature and date signifying receipt of the educational materials, prior to signing a contract for construction services.

b. requires the property owner to "elect" or "not elect" to require a payment bond, indicated by the property owner's signature next to either choice

c. states that the construction supervisor must file this form in the registry of deeds where the property lies

d. states the amount of the proposed contract for construction services

e. describes the property subject of the proposed contract for construction services

f. requires the construction supervisor's signature acknowledging that if the property owner requires a bond then the construction supervisor must obtain a bond as described in chapter 254 section 12, upon entering into the construction contract.

255 g. requires the construction supervisors' signature acknowledging the fact that failure to obtain a
256 payment bond required by the property owner upon entry into the contract will constitute a willful
257 violation of the "Payment Bond Option Requirement," subject to prosecution by the attorney
258 general and punishment of a maximum fine of two thousand dollars or maximum term of
259 imprisonment of one year or both.

260

261 (d) Additional board duties

262

263 The board shall provide every licensed construction supervisor with:

264 f. Educational materials for distribution to property owners.

265 g. Payment Bond Option Form for distribution to property owners.

266 h. Notice of this amendment to chapter 143.

267

268 i. require construction supervisors to:

269 i. Provide the educational materials described in b(iv)a to any property owner the
270 construction supervisor intends to contract with for construction services.

271 ii. Provide the materials prior to entry into any contract for construction services
272 and obtain the property owner's signature on the bond option form indicating
273 such receipt.

274 iii. File at least one copy of the "Payment Bond Option form" in the registry of
275 deeds for the county or district where such land lies that is the subject of the
276 contract between a property owner and the construction supervisor to receive
277 construction supervisor services.

278

279 j. Provide the following section as penalty for violation of any of the above provisions of
280 the section entitled "Payment Bond Option Requirement"

281 i. The attorney general or the district attorney may prosecute any person who
282 knowingly and willfully violates any of the provisions of this chapter, with a
283 maximum fine of two thousand dollars or maximum term of imprisonment of
284 one year, or both. If a greater penalty is provided by the provisions of this
285 chapter or by any other law, then the greater penalty applies.

286 ii. Such fines and imprisonment shall be in addition to any penalty given by the
287 board.

288

289 (e) To hold public advisory committee meetings after 5 p.m. at least once every six months.

290

291 (f) To establish and maintain records of actions and procedures in according with the public records
292 laws.

293

294 (g) To perform such other functions and duties as may be necessary to carry out the provisions of this
295 chapter.

296

297 (h) The Board shall promulgate and enforce the provisions of the chapter as amended.

298

299 SECTION 3 Chapter 254 of the General Laws, as appearing in the 2002 Official Edition is hereby amended
300 by adding after section 12 the following section:—

301

302 Section 12A Payment Bond Option Form Presumption

303

304 (a) Definitions

305 For the purposes of this section following words shall have the following meanings unless the
306 context clearly requires otherwise—:

307

308 “Payment Bond” is defined by requirements set forth in section 12, chapter 254 of the Mass
309 General Laws.

310

311 (2) “Payment Bond Option Form” is defined as the form established in section 94A,

312 a. require construction supervisors to

313 i. Provide the educational materials described in a to any property owner the
314 construction supervisor intends to contract with for construction services.

315

316 ii. Provide the materials prior to entry into any contract for construction services
317 and obtain the property owner’s signature on the bond option form indicating
318 such receipt.

319

320 iii. File at least one copy of the “Payment Bond Option form” in the registry of
321 deeds for the county or district where such land lies that is the subject of the
322 contract between a property owner and the construction supervisor to receive
323 construction supervisor services.

324

325 b. Provide the following section as penalty for violation of any of the above provisions of
326 the section entitled "Payment Bond Option Requirement"
327 i. The attorney general or the district attorney may prosecute any person who
328 knowingly and willfully violates any of the provisions of this chapter, with a
329 maximum fine of two thousand dollars or maximum term of imprisonment of
330 one year, or both. If a greater penalty is provided by the provisions of this
331 chapter or by any other law, then the greater penalty applies.
332

333 ii. Such fines and imprisonment shall be in addition to any penalty given by the
334 board.
335

336 (b) The registry of deeds in the county or district where the land identified in the Payment Bond Option
337 Form lies, shall not allow attachment of any lien under section four of this chapter on the identified land
338 if the property owner contracting for licensed construction supervisor services, as defined in 780 CMR
339 R5, required a bond as described in section 12, chapter 254 by signifying this requirement on the
340 Payment Bond Option Form.

341

342 (c) If a licensed construction supervisor fails to file a Payment Bond Option Form in conjunction with a
343 contract to provide construction services, a presumption arises that the property owner required a bond
344 as described in section twelve, and all such rights as the property owner had under section twelve shall
345 apply.

346

347 (d) If a property owner signifies in a Payment Bond Option Form a requirement of a bond as described in
348 section twelve, but the licensed construction supervisor failed to procure such a bond, the registry of
349 deeds in the county or district where the land identified in the Payment Bond Option Form lies shall not
350 allow attachment of any lien under section four of this chapter on the identified land. The property
351 owner shall receive the benefits of a bond, as described under (b).

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The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO CONSTRUCTION SUPERVISOR SERVICES.

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