

By Mr. Hynes of Marshfield, petition of Frank M. Hynes and another for legislation to allow certain contractors exclusion from workers' compensation insurance in the hiring of subcontractors. Commerce and Labor.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-Five.

AN ACT TO ALLOW CERTAIN CONTRACTORS EXCLUSION FROM WORKERS' COMPENSATION INSURANCE IN THE HIRING OF SUBCONTRACTORS.

*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 152 of the 1988 Official Edition of the General Laws,  
2 as amended by sections 343, 344, and 345 of Chapter 343 of the  
3 Acts of 1990 and by Chapter 398 of the Acts of 1991 is hereby  
4 further amended by adding in section one "Definitions" the  
5 following paragraphs:

6 (1b) "Contractor", any person who owns or operates a con-  
7 tracting business who, through himself or other, undertakes, offers  
8 to undertake, purports to have the capacity to undertake, or sub-  
9 mits a bill for residential contracting work.

10 (1c) "Contract", a written agreement contained in one or more  
11 documents for the performance of certain residential contracting  
12 work, including all labor, goods and services set forth under said  
13 agreement.

14 (7b) "Residential contracting", the reconstruction, alteration,  
15 renovation, repair, modernization, conversion, improvement,  
16 removal or demolition, or the construction of an addition to any  
17 pre-existing owner occupied building containing at least one but  
18 not more than four dwelling units, which building or portion  
19 thereof is used or designed to be used as a residence or dwelling  
20 unit, or structures which are adjacent to such residence or

21 (11a) "Subcontractor", any person other than a supplier of  
22 material or labor, who enters into a contract, written or verbal,

23 with a contractor for the performance of any part of the contrac-  
24 tor's contract, or who enters into a contract with any other subcon-  
25 tractor for the performance of any part of the subcontractor's  
26 contract.

27 and by further amending said section 1 of said Chapter 152, as  
28 so appearing, by adding after subsection (4) (g) in line 61 the  
29 following new subsection: —

30 (4) (h) a subcontractor who enters into a residential contracting  
31 contract with a residential contractor, provided that said contractor  
32 subcontracts with no greater than four such subcontractors, and  
33 provided further that the contractor at the time of the entering into  
34 of the contract with the subcontractor informs said subcontractor  
35 in writing that he does not provide Workers' Compensation  
36 Insurance and provided further that the subcontractor signs a nota-  
37 rized statement indicating that he enters into the subcontract freely  
38 accepting the condition that the contractor provides no Workers'  
39 Compensation Insurance and waives any perceived, real, or legal  
40 right of action, in respect to any injury or loss at common law, or  
41 under the law of any other jurisdiction, or under the provisions of  
42 said Chapter 152 against either the contractor or the owner of the  
43 residential property.