

CBA LPRC POSITION REQUEST FORM

The CBA Construction Law Section **position request** is as follows:

- 1) Proposed legislative or regulatory concept:

False Claims Act. The Construction Law Section opposes the establishment of a state False Claims Act which could potentially be misused. It would impose significant civil and criminal penalties; it is an incorrect remedy for problems associated with the state contract bidding process; and it would likely reduce business with the state and revenue. The Section is not opposed to legislation that would include penalties resulting from willful or intentional fraudulent conduct.

- 2) Explanation and rationale for advancing this position:

Public and legislative support for a state False Claims Act largely took root in a handful of high-profile public works construction disputes early in the past decade, spurred by negative publicity that made the discrete problems in those situations appear to be more widespread and endemic to the construction industry as a whole. However, a few “bad apples” do not mean that the entire “barrel” must be destroyed. In the years since, the public groundswell of support has significantly diminished, and rightly so: most construction contractors - - at least, those who have survived the economic recession of the past decade – are hardworking, diligent, honest and well-meaning taxpayers of the State of Connecticut. The False Claims Act would be an empowering mechanism for the state to engage in “search and destroy” missions to unearth financial improprieties that are either non-existent, inadvertent or the result of simple and simply explainable misunderstandings.

- 3) Is draft regulation, legislation or proposed bill included?

No.

- 4) What is the date of any legislative hearing, if known?

Unknown.

- 5) Was this position previously approved by the CBA? If so, when does/did it expire?

Yes. Approved by the House of Delegates, June 20, 2016; Expired on June 30, 2019.

- 6) Is the CBA section or committee seeking to join a previously approved CBA section or committee position?

No.

- 7) Potential or actual CBA opposition from another CBA section or committee?

Unlikely.

- 8) Strength of section position (including process and results of section vote taken on issue):

All those present at the Construction Law Section meeting held on October 3, 2019 voted unanimously in favor of this position.

9) Fiscal impact (on the state):

There would be little or no appreciable financial impact on the State by not passing a False Claims Act. Given the severity of the penalties proposed, a False Claims Act will likely cause the state more harm than any good that could arguably or theoretically come of it.

10) Are you seeking “fast-track” approval?¹ No.

¹ A “fast track” recommendation will be submitted to the House of Delegates (HOD) or Board of Governors (BOG) at its next scheduled meeting (or, if between meetings of the HOD or BOG and during the legislative session, to the Executive Committee), and is warranted only when the Legislative Policy & Review Committee concludes that further analysis and study is unnecessary and where there is legitimate time pressure to address pending legislation.