



AIA Kansas
A Chapter of the American
Institute of Architects

February 19, 2007

TO: Senate Conference Committee
FROM: Trudy Aron, Executive Director
RE: Support with Amendment for SB 333

Good Morning Madam Chair and Members of the Committee, I am Trudy Aron, Executive of the American Institute of Architects in Kansas (AIA Kansas.) I am here to testify in support of SB 333 with one change.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 120 private practice architectural firms designing a variety of project types for both public and private clients. The rest of our members work in industry, government and education where many manage the facilities of their employers and hire private practice firms to design new buildings and to renovate or remodel existing buildings.

SB 333 is a compromise agreed to between the Associated General Contractors and the American Subcontractors Association. In most part, we agree with the compromise with one exception. On page 3, New Section 4. Strike the last sentence on lines 22-24 that reads, "No more than 150% of the value of work that is not completed due to no fault of the subcontractor may be withheld pending completion."

As we have discussed with this committee before, the most frustrating time for the owner and architect can come at the end of a project when the architect goes through the building to see what needs to be finished. While the remaining items do not affect the occupancy and hence substantial completion, they do remain to be finished in order to achieve final completion.

Let me give you some examples of problems that occur after substantial completion when the contractor has been paid for their work, except for retainage:

- Painting and base – there may be numerous places where painting needs to be touched up and cove base installed.
- Tile Work – at substantial completion, the tile work is completed except for damaged tiles that need to be replaced
- Carpet – there is a flaw in the carpet and it needs to be replaced
- Electric wall cover plates are not installed

In all of these cases, some work remains to be finished and the contractor has been paid for the work except retainage. If the owner cannot withhold the retainage due on the entire contract, the owner has no certainty that the contractor will finish the job. In that case, the owner has two choices – hire someone else to finish (often at a much higher cost) or try to get the bonding company to get the original subcontractor back on the job.

When SB 33 – Prompt Pay for Private Construction - was passed, it did not include this language. While we would like to be able to support SB 333, we cannot unless this amendment is made. Retainage on those who need to finish their work is the only way to get the contractor back on the job or to have enough money remaining to have others finish the work.

We urge you to strike the language on lines 22-24 on page 3. Thank you for allowing me to address you on this bill.

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