

AGC of KANSAS



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February 8, 2013

Kansas Senate Commerce Committee
Testimony on SB 93
Commerce Committee Meeting – February 11, 2013, 8:30 am

Attached please find Associated General Contractors (AGC) of Kansas's testimony for consideration by the Senate Commerce Committee on SB 93.

Sincerely,

Mike Gibson
Executive Vice President

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Testimony of Mike Gibson, AGC of Kansas

Senate Commerce Committee

February 11, 2013

Senate Bill 93

Good Morning Madam Chair and Senate Commerce Committee Members

My name is Mike Gibson and I am the Executive Vice President for Associated General Contractors of Kansas. AGC of Kansas is recognized as the "Chamber of Commerce for the Commercial Construction Industry" representing over **225 Kansas General Contractors, Subcontractor/Specialty Contractors (including the largest base of commercial subcontractors in Kansas), Suppliers and Professional Service Firms** and there is **NO OTHER Kansas association that is larger or more diverse in the representation of the Commercial Construction Industry.**

Over the past few years AGC of Kansas has introduced this Construction Registry legislation which calls for the establishment of an electronic registry that will be administered by the Kansas Secretary of State's office. During these past legislative sessions AGC has listened to concerns of those groups that have opposed this legislation and over that time have worked hard to incorporate amendments to address these groups concerns. Some of these amendments in SB 93 include the EXEMPTION OF ALL HIGHWAY PROJECTS (which are performed by the Kansas Contractors Association membership) AND RESIDENTIAL CONSTRUCTION PROJECTS (SB 93 only applies to commercial construction projects), ALL COSTS OF THIS REGISTRY WILL BE PAID FOR BY THE GENERAL CONTRACTOR (no cost to the subcontractor or supplier) and ASSURING THAT NO ONE COMPANY OR INDIVIDUAL LOSES THEIR LIEN RIGHTS.

Recently, AGC of Kansas and its National Office - AGC of America (Washington DC) received feedback from the Surety and Financial Institutions expressing major concerns on the increased risks associated with CONTRACTOR DEFAULTS and the need to make enhancements to the payment process for all contractors involved in a construction project. These contractor defaults have created UNCERTAINTY within these Surety and Financial Institutions. This is the driving force of why AGC of Kansas is bringing SB 93 back to the Kansas Legislature in order to proactively address these uncertainties.

In addition, AGC of Kansas was present at a Fall 2012 Judiciary Council Subcommittee meeting where many of our past opponents to a construction registry not only made a motion to support an industry registry but all of these same opponents to a construction registry voted to support a registry for the automobile industry. With that in mind, if groups like KRMA, KCA and ASA see merits for a registry for the automobile industry then AGC of Kansas believes that they must see merits for a construction registry.

To provide some perspective on the commercial construction industry, and the need for this state construction registry, we have seen over time the payment process becoming more and more difficult to manage because of the evolution of a commercial construction job-site. This industry evolution has seen a commercial construction job-site being comprised of a higher number of subcontractors, remote/sub-tier subcontractors and suppliers. This increase in job-site providers have created difficulty by the general contractor in the identification of all of those firms that are in the payment process. AGC of Kansas believes that a Construction Registry would provide for an "Independent Third Party", in this case the Secretary of State's office, to provide accessibility to information of all parties involved in a job-site in order to assure payments from TOP TO BOTTOM. This independent third party registry would send a strong message that Kansas is taking pro-active measures to shore up the uncertainties associated with contractor defaults and making sure that everyone is aware of who is in the payment process on a commercial construction project.

As we all know there has been a national financial and credit challenge for the business community and AGC of Kansas believes that a State Construction Registry would provide more certainty to those Surety and Financial institutions in order to underwrite and finance these construction projects and at the same time provide an enhancement to the communication and understanding of all of those companies that are eligible for payment. At the end of the day AGC of Kansas is confident that increased certainty in the marketplace will provide for an atmosphere to assure payments to all, avoid duplicate payments by general contractors and instill confidence in the overall payment process.

In closing, sometimes it is important to review what a legislative bill is and what it is not. SB 93 provides more certainty to the payment process in making sure that all companies are paid and at the same time providing a mechanism that produces an enhancement to communication and awareness of the payment process. SB 93 is not an attempt to remove lien rights for any construction company and does not burden these same companies with additional costs associated with participating in this construction registry.

At the end of the day AGC of Kansas believes that a general contractor is only as good as the team of subcontractors, suppliers and workers that support their construction job-site. In order to preserve these teams the construction industry needs your support for a state construction registry. Opponents to a construction registry will sight the need for status quo and AGC of Kansas believes that embracing status quo will only embrace more uncertainty and this uncertainty will increase the risks associated with contractor defaults. The impact to Kansas will be fewer companies in business and less employment for Kansas workers. AGC of Kansas asks for your help in protecting our future by allowing for a state construction registry.

AGC of Kansas would like to thank this committee for its time and consideration on SB 93 and would ask that you VOTE YES to support SB 93. Thank you for your service and leadership to the citizens of Kansas.

We also have a few industry professionals that you will hear from on the merits of a State Construction Registry. At this time I would like to turn the podium over to our legislative consultant, Steve Kearney, to share with you some of SB 93 technical language points. Steve.