

THE ASSOCIATED GENERAL CONTRACTORS OF CONNECTICUT, INC.

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Senate Bill 785, An Act Concerning Construction Change Orders General Law Committee February 13, 2009

CCIA/AGC/CT Position: Support

Connecticut Construction Industries Association, Inc. (CCIA) represents the commercial construction industry in Connecticut and is committed to working together to advance and promote a better quality of life for all citizens in the state. CCIA is comprised of more than 350 members, including contractors, subcontractors, suppliers and affiliated organizations representing all aspects of the construction industry. Associated General Contractors of Connecticut (AGC/CT), a division of CCIA, represents commercial, industrial, and institutional construction contractors, subcontractors, material suppliers and professionals serving the construction industry. AGC/CT is the Connecticut chapter of the Associated General Contractors of America, a national contractors trade association.

Senate Bill 785, An Act Concerning Construction Change Orders, would relieve a contractor or subcontractor of any express or implied duty to perform any future changes to the work once the cumulative sum of "pending construction change orders" or "other pending change directives" exceeds 5% of the contract or subcontract. Pending construction change orders or pending change directives are authorized written directives for extra work that have been issued to a contractor or subcontractor but the payment amount cannot be processed through no fault of the contractor or subcontractor who performed the work. The definition does not include change orders that are in dispute.

The bill also requires that each contractor and subcontractor include a statement with every monthly payment requisition indicating the status of all pending and approved change orders and change directives. CCIA and AGC/CT **support** Senate Bill 785 and we respectfully request that the General Law Committee approve the bill.

Contractors and subcontractors are often exposed to crippling financial risk when they are authorized to perform changes to the work, they properly perform the work, but they can't get paid – simply because the paperwork is not processed. Meanwhile, they are in financial jeopardy because they have paid for the extra labor and materials that went into performing the changed work and are effectively operating at a loss. The problem often escalates to the point that it cripples the unpaid contractor or subcontractor when the owner has no knowledge about the changes to the work, doesn't make financial arrangements to provide for it, and has no financing left to pay for the work at the completion of the project. This leaves the well-performing contractor or subcontractor no

choice but to accept a fraction of what it is duly owed months or years after the work is performed. Senate Bill 785 provides a relief mechanism that would resolve this problem.

Senate Bill 785 is necessary because:

- Contractors and subcontractors cannot continue to finance changes in the work on their own and should not have to negotiate for less than the value of the work at the end of the project.
- It would encourage the settlement of problems related to unprocessed change orders during the project rather than having them fester until the end of the project when the subcontractor is often the victim.
- The statement that would be required with every requisition would keep all members of the construction project updated, including owners, on the status of all change orders, so that owners are not surprised at the end of the project by the costs of unanticipated extra work that has already been performed.
- Contractors and subcontractors should be relieved of any duty to perform extra work when the undisputed amount due and owing to them under unprocessed change orders exceeds 5% of their contract value.

For more information, please contact John Butts, Assistant Executive Director, AGC/CT or Matthew Hallisey, Director of Government Relations and Legislative Counsel, Connecticut Construction Industries Association (CCIA) at 860-529-6855.