Testimony by Chris Syrek, President of
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Before the Judiciary Committee on March 6, 2015

SB 1032 An Act Concerning the Applicability of the Statute of Limitations to Construction and Design Actions Brought by the State or a Political Subdivision of the State

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Good afternoon, my name is Chris Syrek; I am the President of Associated Builders and Contractors of Connecticut (CT ABC). CT ABC is a statewide trade association of almost 200 members that represents merit shop contractors.

CT ABC is supportive of the concept of SB 1032 which would create a much needed statute of limitations for construction and design professionals that work on state projects. We were in support of a similar bill during the 2014 Legislative Session that was voted out of this Committee unanimously, but unfortunately was never called for a vote before the close of session. **It is important that contractors be included as part of this legislation and CT ABC is committed to being part of the discussion and finding a solution to this problem.**

Due to the ruling in the State of Connecticut vs. Lombardo Brothers Mason Contractors, et. al and the common law doctrine of *Nullum Tempus*, there is no existing statute of limitations for those that do business for the state, leaving industry professionals that work on state funded projects indefinitely liable for damages. That includes damage from age and normal wear and tear over the course of time. This bill offers a fix to this problem by creating a fair and reasonable statute of limitations in which the state can initiate claims against a contractor or other industry professional.

The issue of protecting the construction industry against unreasonable liabilities and financial penalties brought upon them by the state is crucial to the industry and the future of public construction in Connecticut. The law as it currently stands passes down an unfair risk to those companies that do work for the state and over time will deter them from bidding. There are simply no contractors that can afford to be indefinitely liable for their work on a construction project. There has to be a reasonable time period in which a contractor knows that the project is closed out, and that future damages are the responsibility of the owner. Every contractor that is pre-qualified to work on state projects wants to complete a quality project and is more than willing to warranty their work. But that guarantee cannot be endless.

In addition to the severe financial ramifications, as the law currently stands, contractors are faced with the burden of having to store their construction documents for the rest of their lives. In a business such as construction where companies are handed down through generations this is not a realistic demand. Another problem presented is that contractors who were unaware of the *Nullum Tempus* doctrine, have most likely disposed of old construction documents, and will be unable use them to defend themselves should they be forced to by the state.

The current law will also increase the state's cost on future public works projects. As more contractors become aware of the extreme liabilities they are exposing themselves to by

completing state work, they will be less likely to bid on projects. With less contractors bidding on jobs, the price of the projects will certainly go up. There will also be an increased cost to the bonding companies on these projects, and that cost will unavoidably be passed on to the state.

CT ABC and our 200 members were appreciative of the Committee's support of the statute of limitations bill in 2014. This is an important issue for the industry and we urge the Committee to address the problem before it spirals out of control. Statutes of limitation apply in almost every legal situation, both civil and criminal, and there is no reason that contractors should not be afforded the same consideration.