



## The Associated Sheet Metal & Roofing Contractors of Connecticut

### **House Bill 5328, An Act Concerning Public Work Contract Retainage and Enforcement of the Right to Payment on a Bond**

General Law Committee

March 3, 2016

The Associated Sheet Metal & Roofing Contractors of Connecticut is an association of commercial, industrial and residential sheet metal contractors employing the skilled craftsmen of Locals #40 and #38 of the Sheet Metal Workers International Union. ASMRCC seeks to provide services that will enhance members' businesses, markets and profitability in all sectors of the unionized sheet metal industry in Connecticut and vicinity.

ASMRCC supports House Bill 5328 and respectfully requests that the General Law Committee approve the bill.

House Bill 5328 would reduce the limit of retainage amounts in contracts advertised by the state Department of Administrative Services from 10% to 5%, and allow for collection of reasonable attorneys' fees and costs when a payment bond surety company does not respond in a timely fashion to a claim for payment.

Connecticut law caps the maximum amount of a portion of a contractor's or subcontractor's earned funds that may be withheld from each progress payment until the project is complete on covered construction contracts at ten percent. The changes to amounts retained by state agencies or public owners by House Bill 5328 would not affect contracts advertised by the state Department of Transportation or contracts awarded by municipalities.

House Bill 5328 would provide a reduction in the amount of funds that may be retained on most public building construction projects awarded by the state. It would provide a balance of fairness and accountability on these projects, particularly for many subcontractors who sometimes go long periods of time without being paid the amount of retainage withheld after fulfilling their contractual obligations. In this economic climate, where margins are thin and contractors are competing for limited work opportunities, it would go a long way toward helping them. Additionally, the amendments would help stimulate the state's economy.

This reduction in the amount of retainage would provide additional relief. Delay in an owner's final acceptance of projects exacerbates the financial pressure of retainage for general contractors and subcontractors. When the release of retainage to general contractors is delayed, subcontractors often have to wait until after the owner releases the general contractor's retainage. This bill would limit that exposure.

Early release of retainage, bonds in lieu of retainage, and other methods have worked successfully to ensure proper performance on commercial construction projects in the state. In many cases, assurance of subcontractors' proper performance on projects does not hinge on a withholding of retainage until the entire project is complete. It would likewise work on public construction projects as well.

Section 2 of House Bill 5328 would encourage timely payment of a bond claim and protect subcontractors from bond payments being held up. The provision would put greater accountability on those responsible for timely payment, so subcontractors are paid in a timely manner for work performed.

Please contact Michael Thompson, executive director of ASMRCC, at (860) 413-3188, if you have any questions or if you need additional information.