

Legislative History for Connecticut Act

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**Act Number:** PA 04-202   
**Bill Number:** 477  
**Senate Pages:** 1118-1121, 1481, 1518-1519, 3239, 3372-3374 11  
**House Pages:** 4496-4512 17  
**Committee:** General Law: 636, 779-781 4

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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

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001118

Senate

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out of the statute to the present acceptable and agreeable terminology and if there's no objection, Madam President, I ask that it be placed on the Consent Calendar.

THE CHAIR:

Motion is to refer this item to the Consent Calendar. Without objection, so ordered.

THE CLERK:

Calendar Page 7, Calendar 149, File 171, S.B. 477  
An Act Concerning Construction Contracts. Favorable Report of the Committee on General Law. The Clerk is in possession of amendments.

THE CHAIR:

Senator Colapietro.

SEN. COLAPIETRO:

Thank you, Madam President. I move the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

The question is on passage. Will you remark?

SEN. CRISCO:

Thank you, Madam President. Madam President, I would ask the Clerk to call LCO2965.

THE CLERK:

LCO2965 which will be designated Senate Amendment Schedule "A". It's offered by Senator Colapietro of the

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31<sup>st</sup> District.

THE CHAIR:

Senator Colapietro.

SEN. COLAPIETRO:

Thank you, Madam President. This is a strike all amendment which deletes the provisions related to the Public Works Department. It applies to the private sector construction contract law to all types of private sector construction work and specifies that it applies to nonprofit corporations, makes the use of default schedule provisions mandatory and extends the period in which must be made from 15 to 30 days.

It also establishes a subcontractor's right to sue the owner for payment and specified the extension for the United States government contracts includes like such as HUD not included.

THE CHAIR:

Senator Colapietro, did you move adoption?

SEN. COLAPIETRO:

Thank you, Madam President. I move adoption of the amendment.

THE CHAIR:

The question is on adoption. Will you remark further? Will you remark further? If not, I will try your minds. All those in favor indicate by saying

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"aye".

ASSEMBLY:

Aye.

THE CHAIR:

Opposed, "nay"? The ayes have it. The amendment is adopted. Will you remark further on the bill as amended?

SEN. CRISCO:

Thank you, Madam President. The bill becomes, I mean the amendment becomes the bill and therefore, I would move the amendment, or the bill as amended.

THE CHAIR:

Will you remark further? Will you remark further? Senator Cappiello.

SEN. CAPPIELLO:

Thank you, Madam President. Just for legislative intent, if I may ask a question through you?

THE CHAIR:

Please proceed.

SEN. CAPPIELLO:

Senator Colapietro, this amendment which is now the bill specifically deals with the issue of nonprofit corporations and includes them in the contracting process. Is that correct? Through you, Madam President.

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SEN. COLAPIETRO:

That's correct. Through you, Madam President, that is correct and I guess the bill wasn't clear enough the last time which it was supposed to have been.

SEN. CAPPIELLO:

Thank you very much.

THE CHAIR:

Will you remark further? Senator Colapietro.

SEN. COLAPIETRO:

If I may, Madam President, if there's no further discussion, I would refer this to the Judiciary Committee.

THE CHAIR:

Motion is to refer this item to the Judiciary Committee. Without objection, so ordered.

THE CLERK:

Calendar 174, File 216, Substitute for S.B. 160 An Act Concerning State Agency Purchase Orders And The Core-CT System. Favorable Report of the Committee on Government Administration and Elections. The Clerk is in possession of an amendment.

THE CHAIR:

Senator DeFronzo.

SEN. DEFRONZO:

Thank you, Madam President. Madam President, I

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001481

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Calendar 138, S.B. 219, Madam President, would move to refer this item to the Committee on Planning and Development.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Madam President. Calendar 141 should be marked Go.

Calendar 148 should also be marked Go.

Moving to Calendar Page 20, Calendar 149, S.B. 477. Madam President, move to place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Calendar 156 should be marked passed retaining its place on the Calendar.

Calendar 159 should be marked passed retaining its place on the Calendar.

Calendar 161 also, passed retaining its place on the Calendar.

Calendar 163, Madam President, should be marked Go.

Calendar Page 21, Calendar 166 should be marked passed retaining its place on the Calendar.

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Calendar 442, Substitute for H.B. 5411.

Calendar 444, H.B. 5452.

Calendar 447, H.B. 5561.

Calendar Page 15, Calendar 449, H.B. 5196.

Calendar 450, Substitute for H.B. 5341.

Calendar 451, H.B. 5567.

Calendar 452, H.B. 5629.

Calendar 454, H.B. 5401.

Calendar Page 16, Calendar 456, Substitute for  
H.B. 5507.

Calendar 457, H.B. 5490, correction. 5479.

Calendar 458, Substitute for H.B. 5483.

Calendar 459, Substitute for H.B. 5181.

Calendar Page 17, Calendar 463, Substitute for  
H.B. 5366.

Calendar 466, Substitute for H.B. 5635.

Calendar Page 20, Calendar 149, S.B. 477.

Calendar Page 28, Calendar 431, S.B. 150.

Calendar Page 29, Calendar 357 and Calendar Page  
30, Calendar 115, S.B. 66.

SB 70

Madam President, that completes those items placed  
on the First Consent Calendar.

THE CHAIR:

Thank you, Sir. Members please check the machine  
to make sure your vote is properly cast. If so, the

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machine will be locked. The Clerk please announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.

Total number voting 35; necessary for adoption, 18. Those voting "yea", 0; correction, those voting "yea", 35; those voting "nay", 0. Those absent and not voting, 1.

THE CHAIR:

The Consent Calendar is adopted.

Senator Looney.

SEN. LOONEY:

Yes, thank you, Madam President. Madam President, I would ask for suspension for immediate transmittal to the House of Representatives of Calendar 268, S.B. 478 which was previously adopted as the Order of the Day.

THE CHAIR:

Without objection, so ordered.

At this time, the Chair will entertain points of personal privilege or announcements. Will you, Senator Crisco?

SEN. CRISCO:

Thank you, Madam President, for the purpose of personal privilege.

THE CHAIR:

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Without objection, so ordered.

Senator Looney.

SEN. LOONEY:

Thank you, Madam President. Madam President, I  
have another item to move to the Consent Calendar. It  
is on Senate Agenda No. 1 under Disagreeing Actions,  
S.B. 477 An Act Concerning Construction Contracts.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Madam President.

THE CLERK:

Calendar Page 13, Calendar 542, File 45 and 698,  
H.B. 5201 An Act Concerning Health Insurance Cover For  
Medically Necessary Formula, as amended by House  
Amendment Schedule "A". Favorable Report of the  
Committees on Insurance, Public Health, Appropriations,  
Finance, Revenue and Bonding and Planning and  
Development.

THE CHAIR:

Senator Crisco.

SEN. CRISCO:

Thank you, Madam President. Madam President, I  
move acceptance of the Joint Committee's Favorable  
Report and passage of the bill in concurrence with the

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those items marked Consent that I'd asked to be taken off, to put back on Consent if you would like to vote on the Consent Calendar, Mr. President. Thank you.

THE CHAIR:

Mr. Clerk, do you need to review those items?

THE CLERK:

No, Mr. President. I'm prepared to call a Consent Calendar.

THE CHAIR:

Very good. You will please announce that the Consent Calendar is being called. The machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the Fourth Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the Fourth Consent Calendar. Will all Senators please return to the Chamber.

Mr. President, those items previously placed on the Fourth Consent Calendar will begin on Senate Agenda No. 1, S.B. 477.

Calendar Page 7, Calendar 496, Substitute for H.B. 5475.

Calendar 501, Substitute for H.B. 5521.

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Calendar 502, Substitute for H.B. 5526.

Calendar Page 8, Calendar 504, Substitute for H.B.  
5478.

Calendar 515, Substitute for H.B. 5512.

Calendar Page 9, Calendar 524, H.B. 5653.

Calendar 526, Substitute for H.B. 5643.

Calendar Page 10, Calendar 529, H.B. 5399.

Calendar 531, H.B. 5557.

Calendar Page 11, Calendar 532, H.B. 5690.

Calendar 533, H.B. 5114.

Calendar 534, Substitute for H.B. 5233.

Calendar 535, Substitute for H.B. 5416.

Calendar 536, Substitute for H.B. 5474.

Calendar Page 12, Calendar 538, H.B. 5601.

Calendar 539, H.B. 5608.

Calendar 540, Substitute for H.B. 5392.

Calendar 541, H.B. 5585.

Calendar Page 13, Calendar 544, Substitute for H.B.  
5429.

Calendar 546, H.B. 5204.

Calendar Page 14, Calendar 548, Substitute for H.B.

5631.

Calendar 549, H.B. 5216.

Calendar Page 15, Calendar 100, Substitute for S.B.

315.

Calendar Page 16, Calendar 140, S.B. 198.

Calendar Page 17, Calendar 178, S.B. 334.

Calendar 204, Substitute for S.B. 500.

Calendar 239, Substitute for S.B. 338.

Calendar Page 19, Calendar 281, Substitute for S.B.  
517.

Calendar Page 20, Calendar 296, Substitute for S.B.  
519.

And Calendar Page 22, Calendar 38, Substitute for  
S.B. 152.

And Calendar 213, Substitute for S.B. 584.

Mr. President, that completes those items placed on  
Consent Calendar No.4.

THE CHAIR:

I believe everyone has had an opportunity during  
the presentation to vote. The machine will be closed.  
The Clerk please announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 4.

Total number voting 36; necessary for adoption, 19.  
Those voting "yea", 36; those voting "nay", 0. Those  
absent and not voting, 0.

THE CHAIR:

The Consent Calendar is adopted.

Mr. Majority Leader, did you wish to proceed with

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Would the Clerk please call Calendar 486.

CLERK:

On page 12, Calendar 486, S.B. 477, AN ACT  
CONCERNING CONSTRUCTION CONTRACTS. Favorable Report of  
the Committee on Judiciary.

SPEAKER LYONS:

Representative John Wayne Fox, you have the floor,  
sir.

REP. FOX: (144<sup>TH</sup>)

Thank you, Madam Speaker. I move acceptance of the  
Joint Committee's Favorable Report and passage of the  
bill.

SPEAKER LYONS:

The question before the Chamber is on acceptance  
and passage. Will you remark?

REP. FOX: (144<sup>TH</sup>)

Yes. Thank you, Madam Speaker. Madam Speaker, this  
bill makes a series of changes to the construction  
contract law that we passed a few years ago. The  
underlying bill has a series of provisions making it  
applicable to nonprofit corporations, it makes use of  
the statutory default payment schedule, mandatory  
establishes subcontractor's rights to sue directly, and  
various other modifications.

There is a Senate amendment, Madam Speaker, which

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is a strike everything amendment. I would like to call that and summarize if I could, please. That is LCO number 2965. I ask that be called and I be allowed to summarize.

SPEAKER LYONS:

The Clerk has in his possession LCO 2965, designated Senate "A". Would the Clerk please call, the gentleman has asked leave to summarize.

CLERK:

LCO number 2965, Senate "A" offered by Senator Colapietro.

SPEAKER LYONS:

Representative Fox.

REP. FOX: (144<sup>TH</sup>)

Thank you, Madam Speaker. This is a strike everything amendment. It eliminates certain provisions in the bill applying to public sector construction. It makes it apply to private sector construction contract law to all types of construction work. It makes use of the default payment schedule provisions mandatory. Establishes a subcontractor's right to sue for payment and exempts HUD.

I will be following this with another strike everything amendment, but for procedural purposes, Madam Speaker, I would move adoption of the amendment.

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SPEAKER LYONS:

The question before the Chamber is on adoption.  
Will you remark?

Representative Larry Cafero.

REP. CAFERO: (142<sup>ND</sup>)

Thank you, Madam Speaker. Through you to Representative Fox. Representative Fox, if you're following it with a strike everything, are we to -- is that just procedural? In other words, what we're looking at is meaningless.

Through you, Madam Speaker.

SPEAKER LYONS:

Well, Representative Fox, that's an interesting question.

REP. FOX: (144<sup>TH</sup>)

Representative Carrero, that's a fair question. (laughter). It is procedural in nature because I think it's more appropriate and it flows better if when, God willing, we send it back to the Senate there's only one action that they need to take rather than two. I thought it appropriate to call it because many of the provisions that are in this are also adopted in what I will next call as House "A", but to answer your question, it is primarily procedural. I don't think it's irrelevant. I don't think it's a waste of time. I think in terms of

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the flow of business, it's appropriate.

SPEAKER LYONS:

Representative Cafero.

REP. CAFERO: (142<sup>ND</sup>)

Thank you, Madam Speaker. A question, again, through you to Representative Fax. (laughter)

SPEAKER LYONS:

Please frame your question, sir.

REP. CAFERO: (142<sup>ND</sup>)

Thank you, Madam Speaker. Representative Fax, (laughter) I am somewhat confused. If the next amendment is strike everything, then everything that is before us right here will not be part of the eventual bill. Is that correct?

Through you, Madam Speaker.

SPEAKER LYONS:

Representative Fox.

REP. FOX: (144<sup>TH</sup>)

Through you, Madam Speaker. Representative Caruso, (laughter) --

REP. CAFERO: (142<sup>ND</sup>)

Madam Speaker, I did not yield the floor, I don't think.

SPEAKER LYONS:

I have a feeling I guess you all must look alike or

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whatever.

Representative Fox.

REP. FOX: (144<sup>TH</sup>)

Through you, Madam Speaker. The next amendment, which is, in fact, a strike everything amendment, does, in fact, incorporate most of the provisions in what is Senate "A". Quite frankly, if I was the one drafting it, I would have done it differently, but in light of the fact that it was a strike everything upstairs, apparently the LCO office felt it appropriate to strike everything for what will be our House "A", incorporate much of it, and add one or two provisions, as was suggested by a number of individuals.

SPEAKER LYONS:

Representative Cafero.

REP. CAFERO: (142<sup>ND</sup>)

Thank you, Madam Speaker. Madam Speaker, in that case, since the bulk of what is going on in this amendment will be incorporated in the next amendment, I'm trying to understand the gist of the purpose of this amendment. You had indicated that this sort of -- Representative Fox indicated that this amendment supplements what we did last year. And I don't quite understand how it makes it better, tighter, or different from what we did last year and I wonder if

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Representative Fix could explain that.

Through you, Madam Speaker.

SPEAKER LYONS:

Representative Fox, you have the floor.

REP. FOX: (144<sup>TH</sup>)

Thank you, Madam Speaker. There have been a series of cases in which the underlying statute has been litigated and which various determinations have been made as to the entities to which it is applicable.

For example, we are now incorporating the concept of owner to include a nonprofit corporation. That is one change to deal with some outstanding litigation which was not dealt with in our original bill.

We are excluding specifically the United States Department of Housing and Urban Redevelopment, Urban Development Corporation. We are clarifying the fact as to whether or not it includes just the definition of commercial or industrial building. The litigation involving this statute related to Yale University and what was a very significant claim, which was disallowed because that institution was not included under a commercial or industrial building.

So it's a question of clarifying, correcting, and clearing up what I consider some loose ends in the original legislation.

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SPEAKER LYONS:

Representative Cafero.

REP. CAFERO: (142<sup>ND</sup>)

Thank you, Madam Speaker. Madam Speaker, calling Representative Fox's attention to lines 106 through 126, the new language, it starts off by saying that each owner that enters into a contract under the section fails or neglects to make payment, and upon demand, shall make payment. It sounds as if and maybe that's the intent, but I'm trying to understand it. Does the owner that does not make payment have any defense or opportunity to give a reason as to why he or she or it did not make payment before they are, by this law, obligation to do so?

Through you, Madam Speaker.

SPEAKER LYONS:

Representative Fox.

REP. FOX: (144<sup>TH</sup>)

Through you, Madam Speaker. If, in fact, the work had been substantially completely, they would have the obligation to make payment. There is, obviously, a right of litigation in order to collect it and I would assume that in any such litigation, they could enter the appropriate defenses.

SPEAKER LYONS:

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Representative Cafero.

REP. CAFERO: (142<sup>ND</sup>)

Thank you, Madam Speaker. Through you, Madam Speaker. Representative Fox, isn't it fair to say, however, the way the language is written, it would not indicate, in fact would actually almost prohibit or preclude anyone from making such a defense? In other words, if they did not make that payment where it says they shall make that payment, because they believed, even if the work was substantially completed, that they had a legitimate defense to not completing the payments, it doesn't seem as if there is any room for such person to put forth that defense and have that defense litigated in any way. Am I reading it wrong or is that a mistake in the draftsmanship?

Through you, Madam Speaker.

SPEAKER LYONS:

Representative Fox.

REP. FOX: (144<sup>TH</sup>)

Through you, Madam Speaker. I do not -- I don't believe you're reading it incorrectly. I also do not believe there's a defect in the draftsmanship. It goes on to say, in that same section, that if the owner fails to make payment, the person shall have a right of action against the owner in a Superior Court for the

appropriate judicial district. So that person could institute that cause of action and you, as the defendant, as in any cause of action, would have the right to provide and submit what you consider to be the appropriate defenses.

SPEAKER LYONS:

Representative Cafero.

REP. CAFERO: (142<sup>ND</sup>)

Thank you, Madam Speaker. Thank you, Representative Fox.

SPEAKER LYONS:

Representative Belden.

REP. BELDEN: (113<sup>TH</sup>)

Thank you, Madam Speaker. Madam Speaker, if I might, an inquiry to Representative Fox, F-O-X, just like the movie, "You've Got Mail."

SPEAKER LYONS:

Please frame your question.

REP. BELDEN: (113<sup>TH</sup>)

Thank you. Representative Fox, in light of the fact that you're asking us to tank Senate "A" and adopt House "A", could you share with the Chamber, before we take that vote, what the specific changes might be in the proposed House "A" that we brought up?

Through you, Madam Speaker.

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SPEAKER LYONS:

Representative Fox.

REP. FOX: (144<sup>TH</sup>)

Thank you, Madam Speaker. That's a fair question and I thank the Representative for his assistance to Representative Cafero.

The amendment that I would hope to call, Representative Belden, is one that has bipartisan support signed on by myself, Representative Farr, Representative Berger and Senator Colapietro and that will be, if we get to it, is 4904. The primary change which was one suggested by Representative Farr, for which I thank him, is an addition to the type of contract that would be exempt and in particular, this would not apply to a contract between an owner and a contractor for an amount of \$25,000 or less. I think the concept by Representative Farr, which is a fair one, is that it should not apply to the smaller, comparatively speaking, the smaller type scenarios. That, I believe, is the primary and I believe actually the only substantive change in what will be an incorporation of everything else in Senate "A".

REP. BELDEN: (113<sup>TH</sup>)

Madam Speaker, I thank the gentleman for his response. I believe that gives us an idea of what may be

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coming before us and I appreciate it.

SPEAKER LYONS:

Thank you, sir.

Will you remark on the amendment that is before us?  
On the amendment. If not, let me try your minds.

All those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER LYONS:

Those opposed, nay. The ayes have it, the amendment is adopted.

Will you remark further on the legislation before us?

Representative Fox.

REP. FOX: (144<sup>TH</sup>)

Yes, thank you, Madam Speaker. Madam Speaker, the House amendment we were referring to, it is LCO number 4904. I would ask that that be called and I be allowed to summarize.

SPEAKER LYONS:

The Clerk has in his possession LCO 4904, designated House "A". Would the Clerk please call, the gentleman has asked leave to summarize.

CLERK:

LCO number 4904, House "A" offered by

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Representatives Fox, Farr, and Senator Colapietro.

SPEAKER LYONS:

Representative Fox.

REP. FOX: (144<sup>TH</sup>)

Yes, thank you, Madam Speaker. As indicated a moment ago, this incorporates what was Senate "A". The one substantive addition would be a provision which would exempt contracts of \$25,000 or less. It would not apply to the smaller type contracts.

I think it's a good proposal put forward by Representative Farr and I urge its support.

SPEAKER LYONS:

Will you remark further on House "A"? Will you remark further on House "A"? If not, let me try your minds.

All those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER LYONS:

Those opposed, nay. The ayes have it, the amendment is adopted.

Will you remark further on the legislation before us?

Representative Chris Stone.

REP. STONE: (9<sup>TH</sup>)

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Thank you, Madam Speaker. And good afternoon. A question, through you, to the proponent of the bill, as amended.

SPEAKER LYONS:

Please frame your question, sir.

REP. STONE: (9<sup>TH</sup>)

Thank you, Madam Speaker. Representative Fox, on line 17, it refers to construction contracts in existence on or after October 1, 1999. And we have an effective date of this bill of October 1, 2004. And just for purposes of, I suppose, legislative intent, if there's a contract that was entered into after October 1, 1999, would that contract be subject to the provisions dealing with retainage and more importantly, dealing with the provisions set forth in lines 45 through 64?

Through you, Madam Speaker.

SPEAKER LYONS:

Representative Fox.

REP. FOX: (144<sup>TH</sup>)

Through you, Madam Speaker. My opinion, for what it's worth, is that it would be.

SPEAKER LYONS:

Representative Stone.

REP. STONE: (9<sup>TH</sup>)

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Thank you, Madam Speaker. And again, through you, I'm somewhat troubled with the amendment applying to contracts entered into after October 1, 1999 which may include a provision or an agreement to the parties that does not contain or in which the contract does not contain the requirements or the provisions set forth in Section 45 through 64. Judging from the Representative's answer, would those contracts have to be modified to include the provisions that are set forth in that section?

Through you, Madam Speaker.

SPEAKER LYONS:

Representative Fox.

REP. FOX: (144<sup>TH</sup>)

Through you, Madam Speaker. I apologize. I may have misinterpreted his question. I thought his question related specifically to the section dealing with retainage, which has been in this bill from beginning to end and I don't think that's a new concept. And it was for that reason that I responded in the affirmative.

With respect to the new concepts, it is my opinion that that would be applicable only to contracts that are entered in after the effective date of the legislation.

SPEAKER LYONS:

Representative Chris Stone.

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REP. STONE: (9<sup>TH</sup>)

Thank you, Madam Speaker. And I thank the gentleman for his answer.

SPEAKER LYONS:

Thank you, sir. Will you remark further?

Representative Len Greene.

REP. GREENE: (105<sup>TH</sup>)

Thank you, Madam Speaker. Madam Speaker, I rise in support of the bill, as amended. As Representative Fox has indicated, the previous bill that we had, after it's been effect for a few years, we found some problems from situations that arose and I think this handles it and I urge the Chamber's support.

Thank you.

SPEAKER LYONS:

Thank you, sir.

Representative Jeff Berger.

REP. BERGER: (73<sup>RD</sup>)

Thank you, Madam Speaker. I also stand in support of this important amendment that adds support to the bill on retainage that this Chamber did last session, an important bill for contractors and subcontractors in the State of Connecticut and certainly many, in all communities throughout this Chamber have the contractors and subcontractors in their communities and in their

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neighborhoods.

This supports them and adds credence and uniformity to the retainage bill and I might add, there's no fiscal impact with this amendment, with this bill, as amended.

Madam Speaker, thank you.

SPEAKER LYONS:

Thank you, sir. Will you remark further? If not, staff and guests come to the Well. Members, take your seats, the machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

SPEAKER LYONS:

Have all the members voted? Have all the members voted? Would the members please check the board to make sure your vote is accurately recorded. If all the members have voted, the machine will be locked and the Clerk will take a tally.

Representative Zalaski.

The Clerk will please announce the tally.

CLERK:

S.B. 477, as amended by Senate Amendment Schedule "A" and House Amendment Schedule "A"

Total Number Voting

141

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Necessary for Passage	71
Those voting Yea	136
Those voting Nay	5
Those absent and not voting	10

SPEAKER LYONS:

The bill, as amended passes.

Are there any announcements or points of personal privilege?

Representative Peter Villano.

REP. VILLANO: (91<sup>ST</sup>)

Thank you, Madam Speaker. Madam Speaker, I'm pleased to remind my colleagues that May is celebrated as Older Americans Month here in Connecticut and across the nation.

First declared by President Kennedy in 1963, Older Americans Month has become a tradition, a time to acknowledge the contributions of our senior citizens to the families and communities to the State and nation across a lifetime.

This year's theme, Madam Speaker, is aging well while living well and many of my colleagues here in the Chamber no doubt know any number of their constituents who adequately fill that description since older Americans are living longer, healthier and more active lives.

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LAW

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anything we can do to help them out to get some type of a license and get the proper training, we'd be happy to help them.

SEN. COLAPIETRO: Okay. Charles.

CHARLES APPLEBY: Thank you Chairmen Fox and Colapietro, members of the Committee. Thank you for allowing me to speak on behalf of S.B. 440. My name is Charles B. Appleby, Sr. of Old Saybrook. And I hold five occupational licenses and a registration certificate from the State of Connecticut. I'm currently President elect of the Connecticut Plumbing Heating Cooling Contractors Association and represent 120 contractors throughout the State of Connecticut. I am currently Chairman of the PHCC, this legislative committee. I also serve as a contractor member of the Department of Consumer Protection, Plumbing and Heating Examining Board.

We are opposed to the S.B. 440 the way it currently reads. And we are willing to work towards a resolution (INAUDIBLE - NOT SPEAKING INTO MICROPHONE). We meet current apprenticeship and occupation law for the State of Connecticut. Thank you.

REP. FOX: Okay. Thank you sir. Questions? Thank you very much. We're going to move to S.B. 477 AN ACT CONCERNING CONSTRUCTION CONTRACTS. We have Michael Brodeur and Mary Ellen Dombrowski. Apparently they have left. Okay. We're going to move on to H.B. 5454 AN ACT EXEMPTING CERTAIN STATE EMPLOYEES FROM PAYMENT OF OCCUPATIONAL LICENSING -- is Dennis O'Neil still here? Apparently not. How about on H.B. 5456 AN ACT CONCERNING THE PRICING OF ENERGY UNITS. We have Gene Guilford? And they've gone. Okay.

That leaves us as best I can tell with H.B. 5451 AN ACT CONCERNING SMOKING IN RESTAURANTS. It appears as though we have approximately 50 people that wish to speak on that. If people want to speak, we're happy to hear them. That's what we do. What I might suggest is if we can get -- start off with at least representatives from both sides. And then if other people want to indicate their support of that



## American Subcontractors Association of Connecticut

*A Chapter of the American Subcontractors Association*

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**STATEMENT IN SUPPORT OF RAISED BILL NO. 477 – AN ACT CONCERNING  
CONSTRUCTION CONTRACTS  
PRESENTED BEFORE THE GENERAL LAW COMMITTEE  
THURSDAY, MARCH 4, 2004  
LEGISLATIVE OFFICE BUILDING, HARTFORD, CONNECTICUT**

Good afternoon, Senator Colapietro, Representative Fox and members of the General Law Committee. My name is Michael Brodeur and I am here today as the President of the American Subcontractors Association of Connecticut to speak in support of Raised Bill No. 477- An Act Concerning Construction Contracts. The ASA of Connecticut is an association of Connecticut based subcontractors and we are a chapter of the American Subcontractors Association. I am also Vice President of the S.G. Millazzo Company, an interior contracting company located in Rocky Hill, Connecticut.

We would like to go on record as supporting wholeheartedly Section 1 of the proposed language in Raised Bill No. 477. This new language provides for the requirement that construction managers provide a bond to the public awarding authority in an amount of the contract for which they are providing services. At the present time there is a statutory exclusion for construction managers and they are therefore **not required to have a bond covering the entire project**. As a result, the construction manager requires his subcontractors to have bonds in order to bid on a given public project, but he is not so mandated. If a subcontractor goes under, the construction manager is protected because the subcontractor had a bond for the project. However, if a construction manager defaults, the subcontractor is, in effect, left high and dry. He cannot go after the public awarding authority as his contract is with the construction manager. Since the construction manager has no bond for the project, the subcontractor is quite simply out the money he is due for his work on a project. By inclusion, rather than exclusion, of the construction manager, all of the subcontractors on a project have the protection of the bond

should the construction manager default. While this may increase the cost of the bid of the construction manager to the awarding authority, it will be a minor cost, and will offer the awarding authority AND the subcontractors, the same protection that is now afforded to the construction manager.

With respect to section 2 of this proposal needs some work. It attempts to introduce a new mechanism that notice of non-payment to the owner, and not just the General Contractor. It would require the owner to place funds in escrow until the issues for non-payment are resolved. While we support the concept, the language in the proposal moves between the public and private sectors by referencing different sections of the statute. If this is a proposal for the private sector we would suggest that the language be included within the statutory language of the Financial Fairness in Construction Contracts and not referenced to public construction statutory language. We support the concept of section 2 but feel that this section needs some additional revisions before moving forward.

In closing, we urge the members of the General Law Committee to, at this time, support wording of Section 1 of Raised Bill No. 477. It creates a level playing field for all players in the construction industry, subcontractor, general contractor and construction manager alike, when they bid on public construction contracts. Thank you. I would be happy to respond to any questions you may have for me at this time.

**FOR ADDITIONAL INFORMATION PLEASE CONTACT**

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## Independent Electrical Contractors of New England, Inc.



TO: The Honorable Tom Colapietro and John Wayne Fox  
Members of the General Law Committee

From: Mary Ellen Dombrowski, Executive Director

Date: March 4, 2004

Re: SB-477, An Act Concerning Construction Contracts

**The Independent Electrical Contractors of New England (IEC-NE) urges lawmakers to support SB-477, An Act Concerning Construction Contracts.**

Delays by owners and contractors in making payments to subcontractors impose hardships on our members, who are generally small electrical contractors. It is very difficult to continue to meet payroll obligations and the other costs of doing business, when payments are delayed.

Although recent legislation has addressed the need to improve the payment process in construction contracts, often times the subcontractor is still left waiting for payment long after the contractor has been paid by the owner. By allowing subcontractors to make a claim directly against the owner rather than just the general contractor, SB-477 will help promote prompt payment in the construction industry.

SB-477 will benefit all parties, including the state and towns, because it will reduce litigation and delays in completing construction projects. Often times, delays or defaults by owners in meeting contractual payment obligations to contractors and subcontractors results in litigation, long delays in completion of construction, abandonment of contracts and bankruptcy of contractors and subcontractors. By providing a mechanism for allowing subcontractors to pursue claims directly with the owner, SB-477 will help address these issues.

IEC-NE therefore urges the committee to support SB-477 to assist Connecticut's subcontractors in obtaining prompt payment for work performed.

*The Independent Electrical Contractors of New England is the premier trade association representing Connecticut, Massachusetts and Rhode Island independent electrical contractors aggressively working with the industry to establish a free environment for merit shop -- a philosophy that promotes the concept of free enterprise, open competition and economic opportunity for all.*

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