

CROSSLAND

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Testimony of Bennie Crossland
Senate Commerce Committee
February 11, 2013
Senate Bill 93

Dear Senators,

My name is Bennie Crossland, President of Crossland Construction Co. Inc. We are a family owned and operated business with offices in Columbus, KS, Rogers, AR, Tulsa, OK, Prosper, TX, Wichita, KS, Oklahoma City, OK, and Denver, CO. I also serve on the Associated General Contractors of Kansas Board of Directors and as a National Director of Associated General Contractors of America.

Imagine for a moment that you just bought your new car. It is beautiful! You got all the options you wanted and you are excited to drive your new possession. You were very fortunate to have paid for your new \$50,000.00 car in cash. The dealer got your check gave you the keys and away you went. Suddenly 90 days later as you are opening your mail there is a letter from General Motors stating that the dealer went bankrupt or disappeared and he had not paid General Motors for your car. The letter states due to the laws in your state because the dealer did not pay General Motors you must now pay for your car to General Motors again. Yes you did everything right, fair and honestly. You had worked hard for your money and thru an inequity in the law you will have to pay for your vehicle once again. Imagine the shock to you! It is just not right your thinking. Something needs to change in the law to protect you against this happening.

That ladies and gentlemen is just what is happening to General Contractors in our great State of Kansas today. If you substitute construction products for the car, increase the amount and instead of General Motors you insert suppliers and sub-sub contractors (remote claimants), you have the exact scenario of the State of Kansas lien law. The economy has damaged many subcontractors causing many of them to file bankruptcy or simply lock their door which has caused this problem.

No, I am not saying to change the entire lien law structure in the State of Kansas. For all the ballyhooing of our opponents the only thing we ask is to give the General Contractor a one-time electronic notice that you have supplied material on his job. This will give him the opportunity to know that you are a supplier of goods or services on his job and he has the opportunity to pay you and avoid being blind-sided by a lien or bond claim being filed after he has done the right thing and paid his subcontractor.

This is not a new type system never heard of in the United States. 26 states have some form of a pre-lien notice. Unfortunately Kansas is not one of them.

The system is very simple. The General Contractor before he starts the job files a simple "Notice of Commencement" with the Secretary of State's Office. In simple terms it says "I am about to start this job and I am letting the subcontractors and remote claimants know if you bring goods and services on my job you must notify me thru the lien registry". In turn within 20 days of anyone supplying goods and services to the job they must file a one-time "Notice of Furnishing". In simple terms this means from the subcontractor or remote claimants "I have supplied goods and services to your job." If a "Notice of Commencement" is properly filed and no "Notice of Furnishing" is received no lien or bond claim may be filed. This legislation says that if the General Contractor still owes money to the subcontractor and the remote claimant has not filed the notice the General Contractor is still obligated to pay the remote claimant any unpaid money not paid to the subcontractor.

This legislation says all amounts under \$5,000.00 are exempt and no "Notice of Furnishings" is necessary. Should you forget to file your "Notice of Furnishings" within the 20 day period you can still file any time at a later date and your goods and services are covered from that date on. It also gives the General Contractor the ability to pay the remote claimant directly or by two party check which means less liens, legal and stress for all parties.

We have exempted transportation construction, including highways, roads, bridges dams or turnpikes. Why Kansas Contractors Association opposes us when they are exempted is beyond me! Also exempted are the residential contractors.

Our opponents have said this cost too much with filing fees. We have said this is so needed we as General Contractors will pay for all the filing fees. Our opponents say more government is not the answer. We have said government caused this problem and passing this legislation will let the government solve it. Our opponents say this will cost the government too much money. We say this is revenue neutral with the filing fees paid by the General Contractors paying for the system. Our opponents say "We are philosophically opposed to this type of legislation", but during the Judicial Review Process, the Director of KRMA, Director of KCA and the head of ASA all voted to approve a state registry to attach liens to car titles thru the Department of Revenue. So basically they are for lien registries, just not in the construction field. This rings hollow to philosophically opposed.

Passing this piece of legislation will protect good hard working general contractors in our state. It will provide a means for the remote claimants to get paid directly from the General Contractor. It will strengthen the integrity in our business processes in construction and level the playing field for all.

I respectfully encourage you to vote yes for Senate Bill 93.

Thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink that reads "Bennie Crossland". The signature is written in a cursive, flowing style.

Bennie Crossland