




Speech By  
**Aaron Harper**

**MEMBER FOR THURINGOWA**

---

Record of Proceedings, 26 October 2017

**BUILDING INDUSTRY FAIRNESS (SECURITY OF PAYMENT) BILL**

 **Mr HARPER** (Thuringowa—ALP) (4.15 pm): I rise to speak in support of the Building Industry Fairness (Security of Payment) Bill 2017. It is good to see bipartisan support in this House that will give industry certainty when it comes to security of payment. On day one in week one of opening my electorate office in Thuringowa, Geoff contacted me because he had lost \$30,000 over the preceding Christmas period on a building site in Thuringowa and he was devastated. The effects that that had on him and his family, because the principal contractor down south had gone bust, in losing that kind of money were certainly something that he had to work through. I commend the minister and our government for bringing this bill to the House to give security for the thousands of subcontractors in the state. Well-known block layer John Beldon in Townsville from Yellow Block Road lost \$500,000 because of loss of payment. This is significant because these businesses can lose their entire workforces. Another business in Thuringowa is DMC Air Conditioning and Electrical. It is very good; it is at my house right now fitting off a couple of air conditioners.

**Mr Watts** interjected.

**Mr HARPER:** It will get paid. Mary has been in that business for 34 years. That business employs over 30 people. Mary, who is a member of the Master Builders Association, had some concerns and we talked through them. The other day Mary told me that that company would be better off by \$2½ million if people had paid for services during its time in Thuringowa. How many more people would that employ in trades such as electrical or in the air-conditioning industry? It would be a significant number. A \$2½ million loss to any business is absolutely mammoth.

I absolutely support the proposed bill, which has a range of measures to start cultural change within the building and construction industry in this state. An aspect of the bill is the new provisions relating to project bank accounts, or PBAs. A PBA is a trust account where payments are held in trust for subcontractors and head contractors. In events such as insolvency, the money is safe and helps ensure subbies are paid. PBAs also help to address late payment or non-payment of subcontractors.

The government will be leading the way with PBAs to ensure that any potential implementation issues are ironed out early on. From January 2018 PBAs will apply to tenders issued for government building or construction projects between \$1 million and \$10 million, excluding engineering projects. Statutory authorities will also generally be excluded but will have the ability to opt in. After phase 1 has started and been in operation, PBAs will be rolled out more broadly to all government and private sector projects valued at \$1 million or more. This rollout will be no sooner than January 2019.

The bill requires the head contractor to establish and manage the PBA. This is appropriate because the head contractor is a party to the subcontractors and is aware of all of the details. The bill explains that a PBA is made up of three individual trust accounts: one general account to process progress payments, a separate account for retention money and a separate account again for disputed funds.

The head contractor will need to prepare regular payment instructions to the bank outlining how the funds are to be distributed. The principal will verify that the subcontractors on the payment instruction are also trust beneficiaries and will then direct payment into the PBA. The bank will then pay money out of the PBA in accordance with the payment instruction. The subcontractors' retention money will be transferred into the separate retention account before being paid out in accordance with the contract and the legislation. The retention money will also be available to the head contractor as a remedy for defective work during the defective liability period. Money will need to be directed into the disputed funds account if the head contractor has already certified an amount for payment to a subcontractor but that amount is not paid. The bill specifies that any difference between the amount certified and the payment to the subcontractor must be placed in a disputed funds account. It will be held there safely until the matter is resolved.

A significant amount of consultation has informed the reforms that are included in this bill. That consultation includes statewide consultation. In Townsville we attended numerous forums. Mr Deputy Speaker Stewart, you were there. At those forums we heard from people from the broader trade industry about the bill. Security of payment is also introduced in the Queensland Building Plan, which was subject to consultation across the state from November 2016 to February 2017. Throughout all of the consultation there has been strong stakeholder support to reform the industry and to take strong action on the issue of security of payment.

During the parliamentary committee process there was also support from many stakeholder groups for the implementation of PBAs. Groups such as the Air Conditioning & Mechanical Contractors' Association, the Master Concreters' Association and the National Fire Industry Association have all supported the reforms. The committee also supported the bill and recommended that it be passed.

This legislation will be of little use without strong anti-avoidance provisions to limit the ability for head contractors to deliberately thwart it. Fortunately, on that front the bill delivers. It provides a range of new offences and penalties for failure to comply with PBA requirements.

The message is clear: the culture within the building and construction industry needs to change to one where payment is the norm. Subcontractors should have the confidence that if they do the work they get paid. I do not want any more subcontractors contacting my office because they did not get paid. This bill provides certainty to the industry. I commend the bill to the House. I certainly acknowledge the great work that the minister has done to introduce this bill to the parliament.