




Speech By
Joan Pease

MEMBER FOR LYTTON

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BUILDING INDUSTRY FAIRNESS (SECURITY OF PAYMENT) BILL

 **Ms PEASE** (Lytton—ALP) (3.27 pm): I rise to speak to the Building Industry Fairness (Security of Payment) Bill 2017. Security of payment for subcontractors has been an issue in the construction industry for years. The Palaszczuk Labor government has had the will and determination to see real change.

The Building Industry Fairness (Security of Payment) Bill 2017 will deliver sweeping security of payment reforms for Queensland's building and construction industry with the main purpose of ensuring that people who work in the industry get paid for the work that they do in full, on time, every time. The bill will create a single act that establishes the framework for project bank accounts, PBAs, and also consolidates the Building and Construction Industry Payments Act 2004 and the Subcontractors' Charges Act 1974. The bill also amends the Queensland Building and Construction Commission Act 1991 to strengthen the ability of the QBCC to regulate the industry.

The bill requires the head contractor to establish and manage the project bank account. This is appropriate, because the head contractor is a party to the subcontracts and is aware of all the details. A PBA is made up of three trust accounts where payments are held in trust for subcontractors and head contractors: one general business account to process progress payments; a separate account for retention money; and a separate account for disputed funds. I think they are pretty straightforward arrangements.

The head contractor will need to prepare regular payment instructions to the bank outlining how funds are to be distributed. The principal will verify that the subcontractors on the payment instruction are trust beneficiaries and will then direct the payment into the PBA. The bank will then pay the money out of the PBA in accordance with the payment instruction. In events such as insolvency, the money is safe and helps ensure subcontractors are paid. PBAs also help to address late payment or non-payment of subcontractors.

The government is leading the way with PBAs to ensure that any potential implementation issues are ironed out early on. From 1 January 2018, PBAs will apply to tenders issued to government buildings and 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 if they choose.

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. Residential construction will only be captured if it is commercial in nature—for example, three dwellings or more; or building type, for example high-rise buildings. Individual detached houses constructed under contracts of less than \$1 million in value will not be captured. This rollout will be no sooner than January 2019.

A significant amount of consultation has been undertaken to contribute to the reforms included in this bill. This includes statewide consultation on an initial security of payment discussion paper between 17 December 2015 and 31 March 2016. Security of payment was also included in the

Queensland Building Plan, which was the subject of significant consultation across the state from November 2016 to February 2017. Throughout all of this consultation there has been strong stakeholder support for reform of the industry and strong action on the issue of security of payment.

There was also support from many stakeholder groups during the parliamentary committee process for the implementation of PBAs. Groups such as Air Conditioning & Mechanical Contractors' Association, Master Concreters Association and the National Fire Industry Association have all supported the reforms.

In addition to consolidating the provisions of the Building and Construction Industry Payments Act 2004 and repealing the BCIPA, amendments in the bill will increase the independence of the adjudication registry and improve the adjudication process, and amendments include the introduction of penalties for failure to pay an adjudicated amount. Further, the opportunities for head contractors to delay payment will be reduced by always requiring a progress payment schedule and removing the second chance payment schedule.

In addition to consolidating the provisions of the Subcontractors' Charges Act and repealing the SCA, the bill aims to simplify, modernise and streamline the existing provisions by modernising the language around subcontractor charges.

The bill contains several amendments to the Queensland Building and Construction Commission Act 1991 to support the security of payment reforms, address the issue of phoenixing, strengthen minimum financial requirements for licensees, and more effectively deal with the issue of unlicensed builders. Amendments include strengthening the excluded persons and influential persons provisions. For example, anyone who has been overtly or covertly running a construction company that goes bankrupt or has its building licence revoked can be excluded from running another building company either in their own name or by giving directions from behind the scenes. An 'influential person' will not need to hold a particular job title or role in a company in order to fall within the strengthened provision. Increased financial reporting by contractors provides the QBCC with insight into a company's financial position and allows it to act on any potential problems, and there are increased penalties for working unlicensed and performing defective building work.

I would like to thank all those who made submissions and attended hearings and for sharing their stories with us. I would like to thank the committee chair, the member for Kallangur, the committee secretariat and my committee colleagues. I would like to echo the words of the committee chair that often subcontractors have good relationships with head contractors and are paid in full and on time. However, we have all heard far too many times where this has not been the case. Subbies not being paid often causes huge financial stress and often results in the loss of homes, marriage breakdowns and bankruptcy. Subcontractors should have the confidence that if they do the work they will get paid for the work they do in full, on time, every time. I commend the bill to the House.