

American Subcontractors Association, Inc., News Release

FOR RELEASE

June 19, 2009

Contact: Emily Yunker
(703) 684-3450, Ext. 1333
eyunker@asa-hq.com

Kansas Becomes First State in the Nation To Regulate Wrap-Up Insurance Programs

ALEXANDRIA, Va. — On May 21, 2009, Kansas Gov. Mark Parkinson (D) signed into law H.B. 2214, making Kansas the first state in the nation to mandate specific guidelines for coverage and participant rights under owner- and contractor-controlled insurance programs, commonly referred to as “wrap-up” programs. The American Subcontractors Association – Greater Kansas City worked tirelessly to pass the bill and to secure the governor’s signature. In the end, the bill won unanimous approval in the Senate on a 38-0 (yeas-nays) vote and approval in the House on a 115-4 (yeas-nays) vote.

“As with any groundbreaking reform effort, ASA-GKC put in a lot of hard work to get this legislation through. We hope that others can learn from our experience and work toward fair treatment under wrap-up insurance programs,” said ASA-GKC Government Relations Chairman Bill Miller, Building Erection Services, Olathe, Kan., who spearheaded the association’s effort.

As defined in the new law, a controlled insurance program is “a program of liability or workers’ compensation insurance coverage, or both, that is established by an owner or contractor who contractually requires participation by contractors or subcontractors who are engaged in work required by a construction project.” The law establishes requirements for wrap up programs generally, as well as for general liability and workers’ compensation coverage included in the programs.

OCIP and CCIP programs shall:

- Make quarterly reports on claims and losses.
- Replace or pay to replace participants’ coverage should the program be cancelled.
- Set a deductible maximum of \$2,500 per claim and no per claim assessment.
- Disclose specific requirements for safety or equipment prior to accepting bids from contractors and subcontractors on a construction project.
- Allow monetary fines for alleged safety violations to be assessed only by government agencies.

General liability coverage included in wrap-up programs must include:

- Mandatory completed operations coverage through the life of the statute of limitations for claims.
- Protection from requirements for purchasing duplicative coverage for participants.
- Severability of interest (each company covered under the policy as if it were covered separately).
- Equal shared limits of liability between program sponsors and participants.
- No requirement that participants waive rights of recovery for claims covered under the controlled insurance program.

The law also mandates that workers' compensation coverage included in OCIP and CCIP must cover all workers on the payroll. In the event that a worker is injured on the job, the worker can not be required to return to work unless he/she is certified as fit for work by a health care provider, or the employer has modified work available.

Finally, the law requires the Kansas Commissioner of Insurance to adopt all rules and regulations needed to implement the new law by Jan. 1, 2010.

Founded in 1966, ASA amplifies the voice of, and leads, trade contractors to improve the business environment for the construction industry and to serve as a steward for the community. ASA's vision is to be the united voice dedicated to improving the business environment in the construction industry. The ideals and beliefs of ASA are ethical and equitable business practices, quality construction, a safe and healthy work environment, and integrity and membership diversity.

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American Subcontractors Association, Inc.
1004 Duke St.
Alexandria, VA 22314