



AIA Oregon

A Chapter of the American Institute of Architects

TO: Senate Judiciary Committee
FROM: Curt Wilson, Legislative Affairs Committee Chair
DATE: April 5, 2019
RE: Support for SB 369 – Substantial Completion

Chair Prozanski and members of the committee. My name is Curt Wilson and I'm an architect from Eugene. My day job is a principal at PIVOT Architecture, and I also lead the legislative activities for our professional association, the American Institute of Architecture.

AIA Oregon represents architects in Oregon, and one of our priorities coming into this session is to address areas where recent court interpretations, statutory requirements, and common practice within the design and construction industry do not align and create uncertainty for the business climate of our practices. Clarifying the definition of substantial completion is one of those areas.

I want to stress architects and engineers stand behind our projects and are responsible for what we do, and we don't consider liability issues as a zero-sum game where risk is shifted from one party to another. Our legislative priorities are to provide clarity and predictability for all parties.

Substantial Completion is an important concept for those involved in construction projects. In general, terms, it is defined as when the owner can use the building or site improvements for its intended use, or uses. One important criterion necessary for this to occur this authorization to occupy the project by the building official. This is a common understanding within the design and construction industry, and our standard contracts are consistent with this understanding. Most construction-industry contracts include a certificate of substantial completion, which is issued by the architect or engineer leading the design team and signed by the contractor and owner. However, the statutes in Oregon are not as complete.

Per statute, the definition of substantial completion is when the parties agree the project is sufficiently complete and acknowledge in writing. In many projects, the certificate of substantial completion is signed by all parties, which aligns the contractual obligations and statutory definition. However, executing the certificate of substantial completion doesn't always happen, which leads to ambiguity. This might be that contracts weren't used, or the required documentation wasn't completed at the end of the project, or one of the parties didn't, or wouldn't sign the certificate. This happens and leads to uncertainty that applies to architects, engineers, general contractors, subcontractors, material suppliers, and owners.

Substantial Completion is a triggering date for many things. It is the date in which warranties start, it is the moment when responsibility for insurance transfers from contractor to owner, the date when liquidated damages can start, and the date when the statute of limitation begins. When the date of substantial completion is not defined, uncertainty is in play, impacting the situation for all parties.

The improvements of the dash 1 amendments simply include the common definitions of substantial completion used with the industry into statute.

In closing, I want to thank Senator Prozanski for engaging the group of stakeholders on this issue.