



AGC
FLORIDA EAST COAST
THE CONSTRUCTION ASSOCIATION

2019 AGC State Legislative Affairs Recap

AGC's efforts this legislative session helped ensure the session was a positive one for Florida's General Contractors, and we were proud to play a significant role. In fact, AGC was publically recognized by *Florida Politics* as a winner in the 2019 Legislative Session for our Construction Bond Bill.

There were 3,492 bills introduced this session, only 192 bills passed. AGC monitored 49 bills pertaining to construction and interests of our members. Here's a recap our some of our top priorities:

The Construction Bond Bill (HB 1247/SB 1200)

Written by the AGC Florida Council, this bill was our priority bill for the 2019 legislative session. The bill, sponsored by **Representative Daniel Perez** and **Senator Kelli Stargel**, levels the playing field for Florida's Commercial General Contractors in two ways; when dealing with a contractor's performance bond & the handling of notices of nonpayment.

- **In the state of Florida, General Contractors could not collect attorney's fees** when they prevailed in court against a specialty contractors performance bond. This meant that sureties had less incentive to settle a claim when taken to court by a General Contractor.
- This bill provides penalties for filing a **Fraudulent Notice of Non-Payment**. The bill defines what constitutes a fraudulent notice of non-payment, requiring that a notice be filed within 90 days "after the final furnishing of labor, services, or materials." The bill also creates a statutory form for the notice and requires the notice to be submitted under oath. In addition, the bill states that issuance of a fraudulent notice is a complete defense to the claimant's or lienor's claim against the bond.

This is a great bill for Florida's General Contractors. We expect, however, to see a push by opponents to repeal certain provisions of the bill in the 2020 legislative session, and we are prepared to defend this legislation. We owe a great deal of gratitude to the bill sponsors who fought for Florida's GC Community and the legislators who actively helped along the way (in alphabetical order): **Sen. Anitere Flores, Rep. Daniel Perez, Rep. Bob Rommel, and Sen. Kelli Stargel**.

Public Construction (HB 101/SB 246)

In its original form this bill would have reduced the maximum amount that may be retained from public construction project, with a value of more than \$200,000, from 10% to 5% before half of the work is complete; and from 5% to 2.5% after half of the work is complete. During the legislative process, amendments were added to the bill to reduce the retainage rate to 5% throughout the life of the project. More troubling for General Contractors, the provision in current law allowing a contractor to choose to withhold retainage from a subcontractor at a higher rate after the work is half complete based on the subcontractor's past performance was deleted. General Contractors working on public projects are often required to work with unfamiliar subcontractors to meet local requirements. The removal of this provision and the limiting of options available to General Contractors to ensure the completion of a public project is not in the best interest of the public or our members. However, with the **AGC Florida Council's** support, this bill passed the House but did not make it to the Senate floor. We'd like to thank **Rep. Alex Andrade** and **Sen. Ed Hooper** for filing the bill in the 2019 session and look forward to seeing this bill return next year. We will continue to work to ensure the interests of General Contractors are considered in any public construction bill.

Permit Fees (HB 127/SB 142)

This bill, which passed unanimously in both the House and the Senate, requires local governments to post building permit and inspection fee schedules, as well as a utilization report detailing the use of those fees, on their websites by December 31, 2020. After December 31, 2020, a local government must update the utilization report before adjusting its fee schedule. At AGC's suggestion, the bill was amended to require building departments to report the number of building inspections conducted by private providers and the number of corresponding building department "audits" of those inspections. The AGC Florida Council would like to thank bill sponsors **Rep. Jayer Williamson**, **Sen. Keith Perry** and **Sen. Jeff Brandes** for their hard work and support.

Construction Defects (HB 911/SB1246)

This bill, brought forward by Commercial General Liability insurers, **was strongly opposed by the AGC Florida Council**. It would have repealed the Chapter 558 pre-suit, notice-and-cure process and replaced it with post-suit, mandatory, non-binding arbitration in all construction defect cases. Under the new process, the parties would have elected in writing within 30 days whether to be bound by the arbitrator's determination or to pursue a traditional lawsuit concerning any unresolved claims. In either event, the arbitrator or the jury would have to make specific written findings in determining the monetary award against a party, the amount awarded against each party, and the reasons the amount is being awarded against that party, including the amount of the award attributable to each party's repair or replacement of its own defective work and the cost to repair and replace damage cause to the non-defective work of other parties. **The bill did not pass.**

AGC fights for Florida's General Contractors. The AGC Florida East Coast Chapter is committed to advocating locally and in Florida's legislature on behalf of Commercial General Contractors in Palm Beach County and the Treasure Coast and beyond in the sectors of Private, Federal and Heavy construction, Highway and Transportation, and Utility Infrastructure construction. The **AGC Florida East Coast Chapter** and the **South Florida AGC Chapter** partner to comprise and equally fund the AGC Florida Council, AGC's state legislative lobbying arm, utilizing the lobbying team of Metz, Husband, and Daughton.

Not a member? Join the AGC Florida East Coast today! Your membership dues fuel our advocacy efforts on issues impacting your business. AGC's work in the Florida Legislature is just one of the ways we serve our community of General Contractors. If you are already a member, we thank you for your support of our efforts on your behalf.