



THE SOUTH FLORIDA AGC

2019 Florida Legislative Recap

This legislative session was positive for Florida's GC's and we were proud to play a significant role in it. This is a very brief recap that covers only our top priorities.

The Construction Bond Bill (HB 1247/SB 1200) – This bill was written by AGC's Florida Council for the benefit of our members. The bill levels the playing field for Florida's Commercial General Contractors in two areas; when dealing with a contractor's performance bond & the handling of notices of non-payment.

- In the state of Florida, **General Contractors were unable to 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 consequences for the filing of **Fraudulent Notices 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." Notices must now be served under oath which creates criminal penalties for those filing them, furthermore issuance of fraudulent notice is complete defense to claimant's or lienor's claim against bond.

This is a great bill for Florida's GC's. Other trade associations fought hard to stop this bill and we were surprised to see certain groups we typically align with actively working to water it down. We expect to see a campaign to repeal certain provisions in next year's legislative session and are ready to defend this legislation. We owe a great deal of thanks to our sponsors who fought for Florida's GC Community and the legislators who actively helped along the way (in Alphabetical Order): Senator Anitere Flores, Representative Daniel Perez (SPONSOR), Representative Bob Rommel, and Senator Kelli Stargel (SPONSOR).

Representative Perez will be joining us for a Friday Luncheon sponsored by First Florida on June 14th, and Senator Stargel will be joining us for our Florida Friday Luncheon on June 21st in Orlando. Join us so you may say thank you in person to these two champions of Florida's GC Community! Click on the links to register and join us.

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Transportation aka MDX Bill (HB 385/SB 898) – This piece of legislation saw some major changes along the way. Initially this bill sought to eliminate the Miami-Dade Expressway and hand over its operations and enormous surplus, which had been set aside for new projects, over to the Florida Department of Transportation. That version of the bill would have been an absolute disaster for the residents of Miami-Dade County (who would have seen little actual toll-relief as bonds still have to be paid back) and would have seen an enormous negative impact on our highway and engineering contractors who would have likely seen MDX's future construction projects scrapped, including the Kendall Parkway. Thankfully, cooler heads prevailed.

By the time session ended the bill that passed replaced MDX with another expressway authority called the Greater Miami Expressway Agency with a new board structure. MDX's operations will be handed over to this entity along with their plans for future projects unfortunately it seems that turbulence caused by this transition will, at the least, significantly delay the construction of the Kendall Parkway project.

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 from 10% to 5% before half of the work is complete; and from 5% to 2.5% after half of the work is complete. Unfortunately, as the legislative process wore on the reduction was limited 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.

While a good bill overall limiting the options available to GC's to ensure completion of a project is not in the public's best interest nor that of our members. Especially in an environment where GC's working on public projects are required to work with unfamiliar contractors to meet local requirements. This bill passed the House but did not make it to the Senate floor. We look forward to seeing this bill return next year and working to ensure the interests of General Contractors are considered.

Permit Fees (HB 127/SB 142) – The bill 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.**

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Construction Defects (HB 911/SB) - This bill, brought forward by Commercial General Liability insurers, was **strongly opposed by AGC**. 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.**

We fight for GC's and Prime Contractors; it is who we are. Associated General Contractors of America South Florida Chapter (The South Florida AGC) is committed to advocating on behalf of South Florida's Commercial Genral Contractors & Prime Contractors in the Building, Federal and Heavy Construction, Highway and Transportation, and Utility Infrastructure sectors. Our fight in the Florida Legislature is bolstered by the **AGC's Florida East Coast Chapter** with whom we partner to form the **AGC Florida Council**, and our lobbying team from The MHD Firm.

Help us help YOU, become a member today! Your membership dues fuel our advocacy of issues impacting your business. Our work in the Florida Legislature is just one of the ways we serve our community of Genral Contractors, Prime Contractors, and Engineering Contractors.

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