



2017 Legislative Agenda

1. **Lien law revisions** – Outlook is for a “pre-notice” system thru a centralized, web-based clearinghouse modeled on Utah and North Carolina. Lawyer group will work out details for a draft to be submitted to 18 plus other interested groups to solicit their input. This draft is expected to be ready late this fall.
2. **Breach of contract (sovereign immunity)** - Issues that remain to be addressed are: recovery of attorneys’ fees without contractual provision, non-road TxDOT projects, oral directives vs. written change orders, and recovery of attorneys’ fees in smaller cases (i.e., claims less than \$250,000) that must go through the State Office of Administrative Hearings (SOAH), instead of state district court.
3. **Right to Cure/Repair Construction Defects** – AGC-TBB will be working to draft legislation to address the issues that surround construction defect claims. Draft legislation may include the following: notice of possible defects; inspection time frame; right to cure and other items that may be identified.
4. **School background checks** - AGC-TBB plans to draft legislation with input from the Texas Association of School Boards (TASB) and the Texas Education Agency (TEA) to create uniformity, predictability, and portability among the school districts for background checks of construction workers on public school projects. Background checks are a tricky area of the law, as both federal and state laws (as well as the technology available) are constantly changing. Complicating the issue are federal and state protections about privacy and confidentiality.
5. **Lender notice of default** - Would require lender to notify GC when owner defaults on loan, so GCs and subs can stop work sooner than under current law. Currently, an incentive exists for the lender to not notify contractors of default. Progress was made on the notice trigger. Work remains on the mechanics of the notice and the consequences of failing to notify.
6. **Construction trust funds retainage** - Would require all retainage withheld by the Owner from the GC to be deposited and held in a trust account, to the extent the funding came from loan proceeds. The Contractor and perfected lien claimants would have a priority (even over the lender) to those trust funds. This would correct the situation where a lender takes over a project from a defaulted borrower/owner and forecloses on the project, wiping out the Contractor’s lien rights. Currently, the lender has no obligation to turn over the retainage to the Contractor.
7. **Economic Development Corporations (EDCs) procurement** - Attempt to close loophole: EDC procurement is essentially unregulated. Would apply same procurement laws to EDCs that apply to other governmental entities.
8. **Other Key Issues**
 - co-operative purchasing – ban/limit use for construction services.
 - Immigration – make sure any state law changes are clear, fair, and predictable.
 - School finance - district court rules against State. Appealed to Supreme Court.