



## 2019 FHBA LEGISLATIVE ISSUES

*Not listed in any order of priority*

- **Collection of Impact Fees** – Local governments are collecting impact fees early in the development process. In at least one county, the fee is now being collected at the time of platting, even though the actual impact may not be felt for years or even a decade or more. Carrying such impact fees earlier in the planning and development process will result in increased housing costs. In addition, codifying current case law to clarify that local governments may not use impact fees to pay for existing debt service and their focus is limited to the actual impact of the development is a top priority.

*FHBA Position: Seek legislation which statutorily dictates a more reasonable time to collect impact fees consistent with the impacts of development, ensures that fees do not fund existing debt and provides other potential reforms.*

*Sponsors: HB 207 by Rep. Donalds and SB 144 by Sen. Gruters.*

- **Growth Management Package** – Another legislative vehicle to address timing of impact fees and codify case law. It expands the impact fee provisions by providing recovery of legal fees for a person who successfully sues a government for inappropriately administering impact fees. This bill also prohibits local governments from mandating the sales prices points of new homes (inclusionary zoning). It requires local governments to respond to applications for development permits within 30 days.

*FHBA Position: Support legislation which prohibits the collection of impact fees prior to issuance of permit, reinforces the requirements for such fees to contain a rational-nexus to the capital facilities being funded and expediting the permitting process.*

*Sponsors: HB \_\_\_ by Rep. \_\_\_ and SB 1730 by Sen. Lee*

- **Construction Workforce** – Though the housing market is rebounding from the depths of a recession, a major impediment to maintaining the current building tide is the critical lack of a skilled workforce. Several states have been successful in growing their construction workforce by providing funding to consistently educate the public about careers in construction. Many kids and parents hold a negative opinion about the ability to make a decent living in the construction trades. This perception must change.



The legislation supported by FHBA provides funding for the Workforce Consortium whose duties would include:

1. Coordinating with institutional partners, including the Department of Education, Department of Economic Opportunity, Department of Corrections, and CareerSource Florida, Inc.
2. Research into construction education issues.
4. Advocacy of construction employment at the K-12 school levels.
5. Development and maintenance of a Build Your Future Florida website.
6. Hosting construction careers job fairs.
7. Sponsorship of K-12 after-school activities that focus on construction careers.

*FHBA Position: Support legislation establishing a permanent Construction Workforce Consortium with a dedicated funding source--a small portion of the building permit surcharge--to educate about profitable careers in construction.*

*Sponsors: HB 775 by Rep. Leek and SB 1118 by Sen. Hutson*

- **Construction Workforce Graduation Requirements** – High Schools have not been prioritizing the trades as part of their educational curriculum. Fortunately legislation has been filed which requires each district to develop a Career and Technical Education (CTE) Graduation Pathway by substituting certain academic requirements for CTE courses.

*FHBA Position: Support any mechanism to introducing kids to career and technical education.*

*Sponsors: HB 661 by Rep. Duggan and SB 770 by Sen. Hutson*

- **Sadowski Affordable Housing Funds** – For the last several years, monies have been swept from the Sadowski Trust Fund to provide financial resources for other state programs. Full funding of the housing trust fund creates an economic benefit in excess of \$3 billion and creates nearly 30,000 jobs while providing safe and affordable homes.

*FHBA Position: Support full funding of the Sadowski Program and legislation requiring trust fund monies be spent on their requisite purpose.*

*Sponsors: This is a budget issue and the subject of HB 1103 by Rep. Silvers and SB 70 by Sen. Mayfield*

- **OSTD (Septic Tank) Regulations** – The recent experience of the FHBA during the BMAP (Basin Management Action Plans) has exposed a barrier to meeting the new standards for OSTD's: the lack of viable alternatives to meet these new standards that are passive and less expensive. Revisions to



the current process utilized to develop OSTD standards in Florida, specifically focusing on how national viable systems can be adopted by Florida, must be pursued. OSTD Vendors are not willing to work within the confines of Florida's Department of Health as the OSTD regulator. The Department of Environmental Protection has the expertise to regulate the program and understands the need to attract innovative technologies to Florida.

*FHBA Position: Support legislation that simplifies the process by which new OSTD technologies are approved in Florida, even if that means transferring the regulatory duties from the Department of Health, provided the receiving agency can issue permits in every county.*

*Sponsors: HB 973 by Rep. Payne and SB 1022 by Sen. Albritton*

- **Mitigation Banking** – Several years ago, the Legislature adopted a bill prohibiting publicly- owned lands from being used in mitigation banking. Now in areas such as Miami/Dade County, a severe shortage of privately-owned mitigation banks exists, yet cities, counties and water management districts that cannot accept mitigation banking credits need funds to control exotic species and other issues for vast slots of land.

*FHBA Position: Seek legislation which alleviates the shortage of lands used for mitigation banking.*

*Sponsors: HB 521 by Rep. McClure and SB 532 by Sen. Lee*

- **Local Enterprise Funds** – Local permit fees are required to be deposited in a fund whose purpose is limited to building department functions. It has been reported that multiple jurisdictions have extreme balances (millions), yet refuse to lower permit fees. Other local jurisdictions would like to tap the funds to assist local school boards and the community in developing workforce education programs, however, this is not allowed under the current law.

Legislation has been filed which caps the amount of money which may be held in the fund to no more than the average of the prior two years' operating funds. Funds which exceed this amount can only be used to enhance services, be rebated or be donated to a 501(c)3 charity whose primary function is workforce training.

*FHBA Position: Support legislation capping the amount of monies (via some formula) and requiring excess funds to result in increased services, a refund or assistance with local Vocational Training*

*Sponsors: HB 715 by Rep. Robinson and SB 1036 by Sen. Gruters*



- **Preemption of Local Regulation** – For the past several years, there has been a movement to address what is considered by many as an unfriendly business climate amongst many local governments. This year, legislation is pending in both the House and Senate that requires a local government to stipulate what the public purpose is prior to enacting a local business regulation, and such regulation will sunset in two years. The filed bills also prohibit a local government from licensing painters, floorers, cabinetry, driveway pavers, etc.

*FHBA Position: TBD*

*Sponsors: HB 3 by Rep. Grant and SB 1748 by Sen. Perry*

- **DBPR Regulation Bill** – Both the House and Senate have bills pending which “deregulate” many Florida Professions, including construction. This concept is a stated priority of Governor DeSantis. The bills:
  1. Provide that an individual who graduates with a 4 year construction degree does not have to take the exam to be licensed.
  2. Creates reciprocity for contractor licensing provided the applicant has had a similar license for 10 years, and they have met Florida’s insurance requirements.
  3. Reduced the size of the Florida Building Commission from 27-17 members.

*FHBA Position: Any licensure reciprocity scenario should ensure the applicant has not had a license previously suspended, should be required to take Florida Laws and Rules and Building Code Requirement Courses in a relative short time frame and the reciprocity statute should require the licensing board to determine the issuing state has similar credentialing requirements to Florida’s.*

*Sponsors: HB 27 by Rep. Ingoglia and SB 1640 by Sen. Albritton*

- **Required Hardening of New Construction** – In reaction to the damage from Hurricane Michael, a bill has been filed requiring that the entire envelope of a building be impact resistant and made from noncombustible material within 10 miles of the coast in High Velocity Hurricane Zones. This would have the effect of increasing the costs of construction and making the workforce shortage more acute requiring concrete in all these areas.

*FHBA Position: See any changes to the code resulting from Hurricane Michael should be based on scientific data resulting from the Forensic Audit being conducted by the Florida Building Commission.*

*Sponsors: HB \_\_\_ by Rep. \_\_\_ and SB 1648 by Sen. Albritton*



- **Grant Funds** – The Building a Safer Florida program serves many functions, including ensuring that contractors and building officials receive quality training and education on the Florida Building Code.

*FHBA Position: Support full funding of the Building a Safer Florida Program from building permit surcharge fees consistent with previous year's funding level cap.*

*Sponsors: Budget Issue*

- **Assignment of Benefits** – The legislation provides that if a consumer acts under urgent or emergency circumstances to protect property from damage and enters into an agreement with a service provider, the service provider may only contract for the right to payment for the work necessary to protect and prevent additional damage to the property. The right to payment may include a post-loss assignment of benefits. However, a service provider may not receive from a consumer acting under urgent or emergency circumstances an assignment of post-loss benefits in excess of the greater of \$3,000 or 1 percent of the Coverage A limit under such policy.
- The legislation requires an assignee and any subcontractor of the assignee to waive any and all claims against a consumer. However, the consumer remains responsible for the payment of any deductible amount provided for by the terms of the insurance policy, and for the cost of any betterment ordered by the consumer. The waiver is effective even if the assignment agreement is subsequently found invalid or rescinded by the consumer.

*FHBA Position: Seek to ensure that any legislation which addresses the issue of Assignment of Benefits, does not inappropriately interfere with a contractor's ability to work with the insurance company or over-regulate the interaction between the contractor and the customer.*

*Sponsors: PCB House Bill and SB 122 by Sen. Broxson*

- **Homeowners' Associations** –  
*Proposed FHBA Position: Ensure that any adopted HOA legislation does not create such a toxic environment that developers are discouraged from investing in future communities and that existing overreaches are checked.*

*Sponsors: No Bill To Date*

- **Open Permits** – Concerns regarding open permits resulted in draconian legislation being filed during the 2018 Legislative Session. The 2018 proposal largely focused on disciplining contractors for failing to properly close a permit. The bill failed to get a single hearing in 2018. Recent versions focus on residential construction and creating a process for addressing open permits absent the draconian



disciplinary measures. The Construction Coalition continues to work with the “REPTILE” section of the Florida Bar in crafting proposed legislation.

*FHBA Position: Oppose legislation which unfairly penalizes a contractor for failing to properly close a permit and ensure any new law created presents as little bureaucracy as possible.*

*Sponsors: HB 447 by Rep. Diamond and SB 902 by Sen. Perry*

- **Expand the Definition of Local Education Agency (LEA)** – When accessing many Governmental Workforce Education Grants, the funds must be distributed through a Lead Education Agency, which in current law is an Educational Institution. This just places an unnecessary layer of administration which reduces the dollars available for training.

*FHBA Position: Expand the definition of a Local Education Agency (LEA), as used in apprenticeship programs in Florida, to include institutions other than public schools, such as private training organizations (for profit and nonprofit), labor unions, industry trade associations or other community based organizations.*

*Sponsors: HB 367 by Rep. Donalds (Withdrawn) and SB 522 by Sen. Diaz*

- **Workers’ Compensation Reform** – Last year, worker’s compensation rates were reduced from the 14.4% increase adopted a few years ago. The latest intelligence suggests another rate reduction is forthcoming. This reduction is not official, just what we believe may happen. If a rate reduction comes to fruition, reform to the workers’ comp attorney fees and other cost-drivers may not be a priority of policymakers this year. However, there is an indication that the lifting of attorney fee caps is beginning to trend claims data upwards. The FHBA will continue working with the business coalition to enact rate- reducing legislation and other reforms if the opportunity arises.

*FHBA Position: Support reforms to the workers’ compensation program which results in meaningful rate reduction.*

*Sponsors: HB 1399 by Rep. Byrd and SB 1636 by Sen Perry*

- **Notice and Right to Cure** – The Notice and Right to Cure statute was founded to encourage rehabilitation of construction defects before instituting tort actions. Unfortunately, the statute is not achieving the desired result. Attorneys routinely advise clients to reject the offer to cure the defect, creating a tort action which often results in significantly greater attorney fees. The FHBA Volume Builders Council has asked that a focus be placed on creating the correct response over pursuing a bill that may not address the full complexities of the issue.



*FHBA Position: Support legislation which requires a homeowner to personally sign a rejection of offer to repair and require a pre-trial mediation which ensures the homeowner understands the offer.*

*Note: HB 911 by Rep. Santiago and SB 1246 by Sen. Wright removes the right to cure process and replaces it with mandatory, non-binding arbitration. These bills were filed absent consultation with the FHBA and we do not support them. We continue to communicate and are trying to work with both sponsors.*

- **Theft from Construction Sites** – There remains a viable movement to revamp theft laws in Florida to reduce the number of individuals incarcerated for petty crimes. Bills in both the House and Senate seek to redefine the theft threshold for felony convictions. The House strikes the provision creating an automatic felony for stealing something from a construction site to stealing anything worth \$1,000 or more. Meanwhile, the Senate Bill maintains the automatic felony for theft from a construction site.

*FHBA Position: Theft from a construction site is quite different from retail theft. A construction site is a dangerous place and theft of certain items delays a project, costing much more than the item itself. We support the Senate Approach*

*HB 589 by Rep. Donalds, SB 406 by Sen. Brandes*

- **Exempting Residential Construction from Lien Law** – A few lawmakers continue to express frustration over the complexity of Florida’s Lien law and the ability of average homeowners to understand how it operates. A few times each year, news media will highlight the rare instance in which a homeowner’s property was liened and they had to pay twice for the service. However, maintaining the lien law’s applicability to residential construction is a necessary way to ensure a clear title from claims of sub-contractors, suppliers and others.

*FHBA Position: Oppose legislation which attempts to exempt residential construction from the lien law.*

*Sponsors: No Bills to Date*