



SB 507
Procurement – Construction Contracts – Contract Modification Clause
Budget and Taxation Committee
Position: Favorable

Maryland AGC, the Maryland Chapter of the Associated General Contractors of America, provides professional education, business development, and advocacy for commercial construction companies and vendors, regardless of labor policy. AGC of America is the nation’s largest and oldest trade association for the construction industry. AGC of America represents more than 26,000 firms, including over 6,500 of America’s leading general contractors, and over 9,000 specialty-contracting firms through a nationwide network of chapters. Maryland AGC supports SB 507 and respectfully requests the bill be given a favorable report.

SB 507 requires a procurement contract for construction to include a clause providing for contract modification when there is a substantial increase in the price of materials required to complete the contract, as determined by the unit, due to the following factors: (i) delayed notice of commencement by the unit for any reason; (ii) acts or omissions by the unit; (iii) changes in the work or the sequencing of the work ordered by the unit or arising from decisions of the unit that impact the time of performance of the work; (iv) encountering hazardous materials or concealed or unknown conditions; (v) delay authorized by the unit pending dispute resolution or suspension by the unit; or (vi) force majeure events, including an epidemic or a pandemic.

Many of the provisions are already included in one form or another in standard DGS and MDOT contracts. However, having these provisions clearly spelled out in a clause dealing particularly with increases in the cost of materials would add clarity. The most substantive addition proposed by SB 507 is the inclusion of force majeure with the specific inclusion of epidemics and pandemics. It would be helpful if that were further refined to specify the issuance by the Governor of a declaration of a health emergency related to an epidemic or pandemic, as was the case with COVID.

Accordingly, Maryland AGC supports SB 507 and respectfully requests the bill be given a favorable report.

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