



H.B. 6826, An Act Concerning Liability for False and Fraudulent Claims  
Government Administration and Elections Committee

March 6, 2023

Senator Flexer, Representative Blumenthal, Senator Sampson, Representative Mastrofranceso:

The Associated General Contractors (AGC) of Connecticut is the building division of Connecticut Construction Industries Association (CCIA), representing 150 commercial, industrial, and institutional construction contractors, subcontractors, material suppliers and professionals serving the Connecticut commercial construction industry. AGC of Connecticut is a chapter of AGC of America.

This testimony is submitted in opposition to H.B. 6826, An Act Concerning Liability for False and Fraudulent Claims. AGC of Connecticut opposes this bill for the following reasons:

- Expansion of the State False Claims Act to construction would create an unbalanced business climate for building contractors considering the enormous damages and penalties, the high costs to defend even the most frivolous of claims, and the low standards of proof. The exposure to such would create significant leverage for the government or an aggrieved third party in forcing a settlement. At worst, these actions often threaten the very existence of a contractor's business.
- The nature of construction contracts and work leave most contractors particularly vulnerable to false claims actions. There is often no clear meaning of true or false on a construction project. Determining liability and assessing damages is nearly always subjective in construction disputes and often involves extensive opinions from construction professionals. Questions of interpretation of contract provisions, specifications, drawings, or other technical requirements may be matters of opinion on which reasonable minds may disagree without making a "false" statement.
- The False Claims Act's undemanding standards create an inviting climate for considerable potential abuse. Whistleblowers and their attorneys will take advantage when the low bar of proof runs into the uncertain nature of construction disputes to pursue financial gain at the expense of innocent victims by accusing them of false claims. The law can be misused by unsuccessful, disgruntled bidders as a device to intimidate competitors. What should be a simple award to a low bidder could potentially be converted into a false claims action with the winning bidder facing the threat of civil penalties and treble damages even when the state agrees no false claim was committed.
- Applying the False Claims Act to construction will have a damaging impact on the entire construction industry. The collateral costs of an abusive action can easily put an innocent, reputable contractor out of business. Even where no false claim was committed, the very act of filing a complaint will cause a contractor to risk losing its prequalification status, face suspension or debarment, or be deemed non-responsible by a state contracting agency.
- Current laws, agency protocols, and contract provisions protect against fraud. State law already provides sufficient remedies, including actions for fraud or misrepresentation, prequalification laws,

and many legal and contractual contracting reform measures, all of which can be used to address issues related to contractual performance and administration.

Thank you for your opportunity of present our views on the potential negative impact of the State False Claims Act on the construction industry. Please contact John Butts ([jbutts@ctconstruction.org](mailto:jbutts@ctconstruction.org)) at 860-529-6855 with any questions.