



**NATIONAL ASSOCIATION OF SURETY BOND PRODUCERS**

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February 5, 2019

Ms. Denise Hasty  
Vice President of Advocacy & Public Relations  
Associated General Contractors (AGC) of Missouri  
1221 Jefferson Street  
Jefferson City, MO 65109

*RE: HB 791 (Griesheimer)*

Dear Ms. Hasty:

On behalf of the National Association of Surety Bond Producers (NASBP), a national trade organization whose membership includes firms employing licensed surety bond producers placing bid, performance, and payment bonds throughout the United States, including Missouri, I am contacting you on behalf of an NASBP Missouri member concerning HB 791. My specific concerns are the expansion of the definition of "contractor" located in RSMo 107.170.1 to include: "or (2) provides or arranges for construction services to a public entity under a contract or agreement with a private person or entity who is acting as a lessee, agent, designee, or representative of the public entity."

The legislative intent of HB 791 may be to provide clarity to the *Brentwood Glass* decision where the court held consultants are not required to furnish performance and payment bonds as stipulated by Missouri's Little Miller Act (Mo. Rev. Stat. § 107.170) because they only "arrange" for construction services rather than actually performing them. HB 791, however, creates an even greater uncertainty and ambiguity by expanding the definition of "contractor" to include subcontractors or suppliers at "any tier" which establishes new bonding requirements for those particular entities. Finally, HB 791 appears to run counter to the *Brentwood* decision.

As a legislative alternative, NASBP supports SB 167/HB 490 which provides a clear and concise amended definition to contractor. Unlike HB 791, SB 167/HB 490 does not create additional bonding requirements, but simply clarifies that when a public owner uses a consultant for assistance with public construction contracts, Missouri's Little Miller Act applies.

Thank you for your consideration of our comments. If you have any questions, please feel free to contact me directly at 240-200-1272 or at [lleclair@nasbp.org](mailto:lleclair@nasbp.org).

Respectfully submitted for your consideration,

Lawrence E. LeClair  
Director, Government Relations