

STATEMENT
INSURANCE ASSOCIATION OF CONNECTICUT

Labor And Public Employees Committee

February 17, 2011

SB 736, An Act Concerning A Surety Bond Guarantee Program
For Emerging Contractors

The Insurance Association of Connecticut, IAC, is opposed to SB 736, An Act Concerning A Surety Bond Guarantee Program For Emerging Contractors, as proposed.

Although SB 736 refers to a surety bond guarantee program, the proposal does not specify how such a program would be created or how it would operate. SB 736 simply removes the bond requirement only for emerging contractors, contractors with little to no track record, if they simply enroll in a program established by the Commissioner of the Department of Administrative Service (DAS). However, there are no requirements or parameters established for the program to be administered by DAS. The only action actually asked of DAS is to create a program that allows emerging contractors to bid state and municipal projects without having a bond. Exempting any contractors from the bonding requirement is simply bad public policy.

SB 736 only benefits a small number of emerging contractors that cannot qualify to work on public projects because they cannot meet the statutory bond requirement. Federal law, dating as far back as 1894, requires public works contractors to furnish a bond to assure the completion of the contract work and payment of the subcontractors and suppliers. Federal, state, and local governments all require surety bonds in order to manage risk on construction projects to protect taxpayer dollars. Surety bonds protect not only the purchaser of the service, but also those subcontractors and suppliers working on the project. On public construction projects, subcontractors and suppliers do not have the traditional mechanics liens available to them in private construction projects. If subcontractors and suppliers do not have any assurance that their bills will be paid, they will be less willing to work with such contractors. Such an exemption will not only harm the citizens of this state by removing the protections from potentially poor workmanship and failure to perform but quite possibly the very people this proposal is seeking to help.

It is not good public policy to have the State exempt any contractors from the bonding requirement. For example, if the 1-84 storm drain debacle of a few years ago had been done by an emerging contractor exempt from the bonding requirements pursuant to this proposal, the state would have been responsible for paying to rectify the work and for paying all the subcontractors and suppliers.

The Small Business Administration (SBA) actually has a Bond Guarantee Program in place for small and emerging contractors. The SBA program can guarantee bid, performance and payment bonds for individual contracts of up to \$2 million for small and emerging contractors who cannot obtain surety bonds through regular commercial channels. Furthermore, Sec. 32-342 provides that the Commissioner of the Department of Economic and Community Development provide technical assistance to enable surety companies to participate in the SBA Surety Bond Guarantee Program and to small contractors to obtain bonds from these surety companies. Yet, this program does not seem to have been aggressively implemented. The Surety & Fidelity Association of America (SFAA) also has a Model Contractor Development program that works with federal, state and local governments to assist emerging contractors through education, including how to meet the financial requirements to qualify for bonds.

Many states, including New York, Mississippi and Rhode Island, have opted to assist such emerging contractors through SFAA's program and the results have been gratifying. For example, in New York, participating contractors have received more than \$67 million in bonding as a direct result of their participation in the New York State Bonding Initiative. Connecticut does not have such a program. If the state wants to assist such contractors, the State's resources would be better used in working with the market to develop and implement such a program to assist emerging contractors through the qualification and bonding process.

The IAC and its members would be willing to work with the state to develop a functional bond guarantee program for emerging contractors.