



**The Surety & Fidelity Association of America
And
American Insurance Association**

Statement of Opposition to HB5487

The Surety & Fidelity Association of America (SFAA) is a non-profit corporation whose member companies collectively write the majority of surety and fidelity bonds in the US. SFAA is a licensed rating or advisory organization in all states and is designated by state insurance departments as a statistical agent for the reporting of fidelity and surety experience.

The American Insurance Association (AIA) is the leading property-casualty insurance trade organization, representing approximately 325 insurers that write more than \$127 billion in premiums each year. AIA member companies offer all types of property - casualty insurance, including surety and fidelity bonds, personal and commercial auto insurance, commercial property and liability coverage for small businesses, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance.

SFAA and AIA oppose HB5487 because it will create an unnecessarily high risk of exposure on public works projects for taxpayers, subcontractors, and suppliers.

There is good public policy for the universal requirement of surety bonds on public works projects. These bonds guaranty that the construction contract will be completed and that the subcontractors, suppliers and laborers on the project get paid. If the surety backs a contractor that defaults on the project, the full amount of the surety bond is available to complete the contract and pay those who performed work on the job. Congress, all states and many municipalities recognize the value of these bonds. If the bond threshold is increased, there are a number of unintended consequences that deserve serious consideration. These consequences include: small subcontractors will have less payment protection; taxpayers will bear the burden of re-letting and paying excess completion costs, if a contractor defaults; state and local governments will have to take the time to screen and qualify more contractors; and long-term empowerment for small contractors could be compromised.

Many Small Subcontractors Are Left with Far Less Protection

Mechanics liens cannot be asserted against public property. Laborers, subcontractors and suppliers on public projects must rely on the general contractor's payment bond for protection. If no bond is required, these parties are left with no means to collect for their services and supplies if the contractor is unable or unwilling to pay them. Small contractors are more likely to start as subcontractors. This is especially true on smaller projects, so that the most vulnerable contractors will be the ones deprived of payment protection by this bill. If the bond threshold is raised, such subcontractors and suppliers will either have to risk losses from non-payment that they cannot afford or not work on the public jobs for which they are best qualified.

Taxpayers are at Greater Risk

The performance bond ensures that the construction contract is completed. The surety provides a bond only to contractors that, in the surety's estimation, are capable of performing the work. The surety examines the contractor's expertise in the work, character, ability to work in the region where the project is located, current work in progress, and overall management as well as its capital and record of paying its obligations. By issuing a bond, the surety provides the public contracting entity with assurance from an independent third party, backed by the surety's own funds, that the contractor is capable of performing the construction contract. The public contracting entity can award the project to the lowest bidder in part because of the surety's prequalification. This prequalification is a major expense incurred by sureties before the bond is written. By raising the bond threshold, there will be more and larger contracts for which the taxpayers will be the burden of re-letting work and paying any excess completion costs if the contractor defaults.

State and Local Jurisdictions Will Need to Screen and Qualify More Contractors

Without the performance bond or payment bond, such qualification assessment is left solely to the various contracting agencies in Connecticut government for the construction projects that are under the contract size threshold. Connecticut contracting agencies will be stretched to make such a detailed evaluation of each bidder for a greater number of projects. Further, leaving this to the government puts the State at risk of claims of cronyism and fraud.

Bonding is a Tool of Empowerment for Small Contractors

To grow in the arena of public construction, a contractor needs an established relationship with a surety. Even if bonds are waived for specific projects, contractors will need to seek bonding at some point. The later the small contractor is required to enter the bonding world, the harder it will be to gear its business to meet the underwriting standards put in place to ensure that only qualified contractors are bonded to complete public projects. These standards also help to ensure the contractor is taking the steps necessary to manage its business correctly and efficiently. In the long run, while waiving bonds might get a contractor one job, it harms small and emerging contractors and suppliers by raising the bar to qualify for their first bonds and substantially increases their risk of non-payment if they are operating as subcontractors on unbonded projects

Increasing the Bond Threshold May Have Unintended Consequences

Increasing the bond threshold does not necessarily mean that small and/or local Connecticut contractors will obtain more state construction business, but rather that all contractors will be able to bid on much larger state projects without being required to provide payment and performance bonds. One result of that may be that larger regional and national contractors will be able to secure more unbonded work in Connecticut, freeing up their bonding capacity for bonded bids and work elsewhere. In the current economy, the sureties have seen larger regional and national contractors bid on and obtain projects that are much smaller than those they previously sought in a robust economy. Another result of increasing the bond threshold may be that financially unstable contractors in the state and from surrounding states who cannot obtain bonding and are not prequalified by sureties will be bidding and obtaining construction projects.

For the reasons listed above, increasing state bond thresholds is contrary to sound public policy and should be vigorously opposed. Bonding requirements exist to provide vital safeguards for those who work on public projects and the taxpayers who pay for them.