

NASBP'S SURVEY OF STATE ANTI-DIRECTED SURETY STATUTES

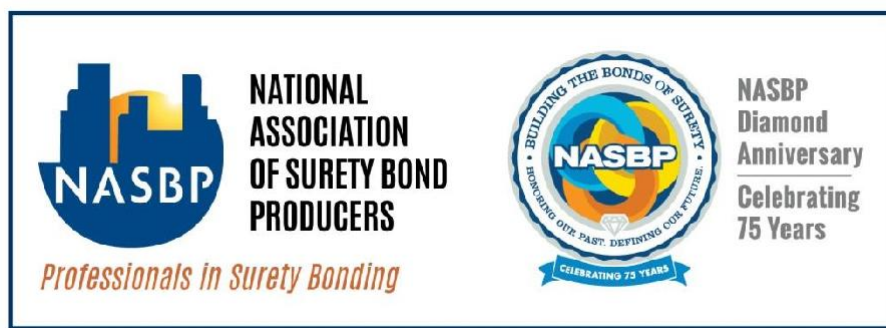
Copyright © 2017 by National Association of Surety Bond Producers, Inc. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the publisher.

DISCLAIMER. This is not intended to be a comprehensive treatment of State anti-directed surety laws. NASBP strongly encourages you to read each law in its entirety.

Laws change periodically, and readers are advised to contact their specific state(s) to ensure the most correct information.

For any questions, please contact Larry LeClair, Director,
Government Relations at lleclair@nasbp.org.

August 2020



Survey of State Anti-Directed Surety Statutes

Directed surety occurs when owners designate a specific producer or surety company from which contractors **must** obtain surety bonds for a specific project or series of projects.

It is the policy of the National Association of Surety Bond Producers (NASBP) to oppose the practice of construction project owners specifically designating named surety companies and/or surety producers from which contractors must procure required bonds as a condition of being awarded construction contracts; or, alternately, of reserving the right to purchase required surety bonds for such contractors and pay the premiums thereon, thereby indirectly effecting a designation of the surety and/or the surety producer.¹

Who prohibits directed suretyship?

- The federal government prohibits directed suretyship on federal projects.
- 42 states have statutory prohibitions against directed suretyship.

State	Anti-Directed Surety Code
Alabama	Ala. Code § 39-1-4
Alaska	None
Arizona	Ariz. Rev. Stat. § 34–222 E (local, county projects; non-state agencies) Ariz. Rev. Stat. § 34–608 C (design-build or JOC)
Arkansas	Ark. Code Ann. § 22-9-405
California	Cal. Gov. Code § 4420 (a) ²
Colorado	Colo. Rev. Stat. § 18-8-408
Connecticut	Conn. Gen. Stat. § 49-41 (c)
Delaware	Del. Code Ann. Tit. 18, § 2304 (21)
D.C.	None
Federal	31 U.S.C. § 9304
Florida	Fla. Stat. § 255.05 (public buildings and

¹ NASBP Board of Directors Resolution: Owner-Controlled Surety, Approved November 12, 1993

² Cal. Gov. Code § 4420.5 (a) Section 4420 does not apply to any construction or renovation project undertaken by a school district or community college district.

	property) Fla. Stat. § 1013.47 (educational facilities)
Georgia	None
Hawaii	Haw. Rev. Stat. § 431:10F-105
Idaho	Idaho Code § 54.1926
Illinois	30 ILCS 550/1
Indiana	Ind. Code 5-30-8-5 (design-build)
Iowa	Iowa Code § 573.3
Kansas	Kan. Stat. Ann. § 60-1111
Kentucky	None
Louisiana	La. Rev. Stat. Ann. § 38.2216
Maine	24-A Me. Rev Stat § 2180
Maryland	Md. Insurance Code Ann. § 27-214
Massachusetts	Mass. Gen. Laws ch. 268A, §8
Michigan	M.C.L.A. § 129.201
Minnesota	Minn. Stat. §574.39
Mississippi	Miss. Code Ann. §31-5-35
Missouri	Mo. Rev. Stat. §34.059
Montana	MCA §18-2-201
Nebraska	Neb. Rev. Stat. § 52-118
Nevada	Nev. Rev. Stat. § 339.065
New Hampshire	N.H. Rev. Stat. Ann. §95:1-a
New Jersey	None
New Mexico	NMSA 1978, § 13-1-146.1
New York	N.Y. Ins. Law §2504 and 2505
North Carolina	N.C. Gen. Stat. § 58-31-66
North Dakota	N.D. Cent. Code § 48-01.2-10
Ohio	Ohio Rev. Code Ann. §9.315
Oklahoma	Okla. Stat. tit. 61 § 135 (public buildings and public works) Okla. Stat. tit. 69 § 1734 (roads bridges and ferries)
Oregon	None
Pennsylvania	Pa. Stat. Ann. tit. 8 § 198
Rhode Island	R.I. Gen. Laws § 27-29-4
South Carolina	S.C. Code Ann. §11-1-120 (payment) S.C. Code Ann. § 11-35-35 (State Government) S.C. Code Ann. § 57-5-1660 (d) (DOT) S.C. Code Ann. §§ 29-6-250 (1) (payment provision)
South Dakota	SDCL § 5-18B-4
Tennessee	Tenn. Code Ann. § 12-4-201 (b) (1)
Texas	Tex. Gov't. Code § 2253.021 (g) (state and local contracts) Tex. Gov't. Code § 2166.258 (Texas Facilities Commission)

Utah	Utah Code Ann. § 63G-6a-1103 (2)(a)
Vermont	None
Virginia	Va. Code Ann. § 38.2-1812.1 ³
Washington	Rev. Code Wash. § 48.30.270
West Virginia	W. Va. Code § 5-22-1(i) (State and subdivisions) W. Va. Code § 5-22A-10 (9) (design-build) W. Va. Code § 38-2-39 (Institutions)
Wisconsin	Wis. Stat. Ann. §§ 779.14 (e) 5
Wyoming	None

³ No insurance agent may provide or offer to provide, directly or indirectly, insurance products to a public body while concurrently and on its behalf (i) evaluating proposals from other insurance agents and (ii) recommending the placement of insurance.