



## National Association of Surety Bond Producers

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February 27, 2014

Senate Finance Committee (FIN)  
3 East, Miller Senate Building  
11 Bladen Street  
Annapolis, MD 21401-1991

Chairman Thomas M. Middleton  
3 East Miller Senate Office Building  
11 Bladen St., Annapolis, MD 21401

Vice-Chairman John C. Astle  
123 James Senate Office Building  
11 Bladen St., Annapolis, MD 21401

*RE: SB 851 (Conway)—Clarification & Resources available to Small Emerging Contractors*

Dear Chairman Middleton, Vice-Chairman Astle, and members of the Senate Finance Committee:

As a follow up to our testimony at the hearing on February 25, the National Association of Surety Bond Producers (NASBP) wishes to provide clarification and additional information on matters raised during the hearing on Senate Bill 851. Also included is a list of programs and online resources available to educate and assist Maryland small and emerging contractors with obtaining surety credit.

### Surety vs. Traditional Insurance

It is important to understand the difference between surety and traditional insurance. A surety bond is a written agreement where one party, the surety, obligates itself to a second party, the obligee (owner), to answer for the default of a third party, the principal (contractor). Most surety companies are subsidiaries or divisions of insurance companies, and both surety bonds and traditional insurance policies are risk transfer mechanisms regulated by state insurance departments. However, traditional insurance anticipates losses and functions to compensate insureds against unforeseen adverse events. The policy premium is actuarially determined based on aggregate premiums earned versus expected losses.

Surety companies operate on a different business model. Surety is designed to *prevent* losses. The surety prequalifies the construction firm based on its character, capacity, and capital. The bond is underwritten with little expectation of loss, because the surety views its underwriting as a form of credit extension, much like a lending arrangement, and places its emphasis on the qualifications of the construction firm to fulfill its obligations successfully. The surety will examine the construction firm's credit history and financial strength, experience, equipment, past and present contracts, and management capability. After the surety assesses such factors, it makes a determination as to the appropriateness and the amount, if any, of surety credit.

To that end, the surety company must be satisfied that the firm runs a well-managed, profitable enterprise, keeps promises, deals fairly, and performs obligations in a timely manner. The surety's thorough prequalification services and guarantees are the reasons for the prevalence of statutory surety bond requirements, ensuring that qualified companies compete for taxpayer-funded contracts and that those such funds are preserved in the event of a default.

### Bonding Assistance and Educational Programs

NASBP members have a long-standing history of advocating for resources to and educational programs for small and emerging businesses, so they may be positioned to qualify for surety credit. The goal is to help small construction firms obtain and increase their bonding capacity and grow and mature their

businesses. Below is a list of bonding education and awareness programs as well as state and federal bonding resource programs to assist Maryland small and emerging contractors.

#### Federal Bonding Educational Programs

##### **U.S. Department of Transportation's Office of Small and Disadvantaged Business Utilization (OSDBU)**

– Since 2010, NASBP has participated in a joint effort of the U.S. Department of Transportation (DOT) Office of Small and Disadvantaged Business Utilization (OSDBU) and Surety and Fidelity Association of America (SFAA) to provide bonding-education programs (BEP) to small and emerging business owners throughout the country. In spring 2011, NASBP participated in a DOT Program in Hanover, MD. To date, over 500 participants have attended 30 workshops resulting in nearly \$140 million in surety bonds for transportation related projects, according to U.S. DOT OSDBU.

#### Federal Bonding Guarantee Programs

**U.S. Small Business Administration's (SBA) Office of Surety Guarantees** – NASBP members play an active role in placing small and emerging contractors in the SBA Surety Bond Guarantee Program, which provides a federal guarantee to surety companies to bond small businesses for construction or service related contracts which otherwise would not qualify in the standard surety market. Small businesses can utilize this program to secure surety credit for public and private contracts.

#### State Bonding Guarantee Programs

**Maryland's Small Business Development Financing Authority (MSBDFA)** – Assists small contractors in obtaining bonding for primarily funded government or public utilities contracts that require bid, performance, and payment bonds.

#### Examples of previous Bonding Educational Programs conducted in MD

##### **Baltimore County Small Business Resource Center, Spring 2013**

NASBP presented at a workshop organized by the Baltimore County Small Business Resource Center for former employees of RG Steel Mill workers at Sparrows Point. The week-long session was organized to benefit those former employees with varying construction and non-construction trade backgrounds who were seeking information about starting a business.

##### **Local Contractor Development Program (LCDP) Contractors College, Baltimore, May 2013**

NASBP members presented at the 2013 Spring LCDP Contractors College, which provided comprehensive training on a variety of construction related topics that are extremely important to the new and experienced contractor. These classes are held to help develop and build capacity in MBE/WBE contractors so they can be in a better position to compete and grow their companies.

##### **NASBP Bonding Program for Emerging Contractors, Randallstown, November 2012**

NASBP organized the Program with Maryland State Senator Delores Kelley, which was led by MD surety professionals, accountants, lenders, construction attorneys and others who made presentations on bonding, banking, accounting, legal risk management, and public agency resources.

##### **Prince George's County Contractor's College - Prince George's Small Business Initiative**

NASBP Small and Emerging Business Committee Chair participated in the following workshops:

- May 2011 – Bonding: The Nitty Gritty with PG County Office of Central Services;
- June 2011 – Bonding: The Nitty Gritty with the Washington Suburban Sanitary Commission (WSSC) in Laurel, MD;
- June 2012 – Bonding Issues For the Small Business with Grunley Construction and the Maryland Procurement Technical Assistance Program (PTAP);
- March 2013 – Surety 101: Bonding for New and Emerging Contractors with Prince George's Community College; and
- April 2013 – Construction Bonding for Government Contracts with Maryland PTAP, U.S. DOT SBTRC and Baltimore Local Contractor Development Program.

On-line course and information—SuretyLearn.org

SuretyLearn.org, an online bonding awareness and information initiative of NASBP, is intended as a vehicle to orient, inform, and shape the expectations of small businesses about surety bonding and as preparation for and a compliment to local in-person bonding readiness programs. The website includes articles, forms, and a basic orientation course (\$25 fee) on surety bonding, at the end of which students receive a certificate of completion. The articles include subjects such as a quick introduction to construction risks, selecting a bond producer, verifying your surety bond, and understanding general agreements of indemnity.

Please note that NASBP would be happy to furnish assistance and expertise in developing, coordinating, and implementing local bonding awareness and education programs.

Thank you for your consideration with the points set forth above. Please feel free to contact me at 202-686-3700 or [lleclair@nasbp.org](mailto:lleclair@nasbp.org) if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry LeClair". The signature is fluid and cursive, with the first name "Larry" and last name "LeClair" clearly distinguishable.

Larry LeClair  
Director, Government Relations