



## National Association of Surety Bond Producers

1140 19<sup>th</sup> Street NW, Suite 800. Connecticut, DC 20036-5104

Phone: (202)686-3700

Fax: (202)686-3656

Web Site: <http://www.nasbp.org>

E-mail: [info@nasbp.org](mailto:info@nasbp.org)

March 2, 2016

Delivered via email

State Senator Cathy Osten  
Chair, Planning and Development  
Legislative Office Building, Room 2100  
Hartford, CT 06106-1591

State Representative Philip J. Miller  
Chair, Planning and Development  
Legislative Office Building, Room 4011  
Hartford, CT 06106-1591

*RE: Concerns with HB 5487, legislation to increase surety bond threshold*

Dear Chairs Osten and Miller;

On behalf of the members of the National Association of Surety Bond Producers (NASBP), a national trade organization of professional surety bond producers, whose membership includes resident and non-resident firms employing licensed surety bond producers placing bid, performance, and payment bonds throughout the U.S., including Connecticut, I am contacting you regarding our concerns with House Bill 5487, which increases the statutory bond threshold on contracts awarded from \$100,000 to \$200,000. Such an increase would mean that many more taxpayer-funded construction contracts would be procured without the vital assurance of performance and payment guarantees.

The Connecticut legislature recognized the important, protective role surety bonds play on public works contracts by enacting the Connecticut General Statutes Title 49, specifically Sec. 49-41, "*Public buildings and public works. Bonds for protection of employees and materialmen. Performance bonds. Limits on use of owner-controlled insurance programs. Certain surety contract provisions.*" Such statutory requirements ensure that only pre-qualified construction firms receive award of public contracts and those subcontractors and suppliers on those contracts have vital payment remedies in place in the event of non-payment.

NASBP is concerned that HB 5487 would have a negative impact on small businesses that supply labor and materials on Connecticut public construction projects as well as the taxpayers of Connecticut. Small businesses often cannot compete as prime contractors on public construction contracts, so they participate at subcontractor and supplier levels. At that level, these businesses' only viable remedy in the event of nonpayment by the prime contractor is to claim on the statutorily-required payment bond. If the prime contractor fails to pay subcontractors and suppliers due to bankruptcy, or for other reasons, such subcontractors and suppliers would not have an alternative means to recover their wages, costs, and expenses. They cannot sue the governmental entity, because they do not have a direct contract with the governmental entity, and they cannot place a mechanic's lien against public property. The absence of a payment bond can mean that such businesses will not remain viable.

Furthermore, taxpayer dollars are at risk when state projects are awarded without the protection of performance bond guarantees. In the absence of a performance bond, additional taxpayer

funds will be required to complete projects where prime contractors default in their performance of public construction contracts. By increasing the threshold for a surety bond, contracting agencies also will have to shoulder a higher burden of screening and pre-qualifying more contractors, diverting their resources and energies away from other important tasks.

If the impetus behind the bill is greater inclusion of small and minority businesses as prime contractors on state and local contracts, better approaches exist that do not involve stripping subcontractors and suppliers and taxpayers of needed protections. The construction and surety industries have existing programs to mentor and educate small and minority businesses, so they are positioned for long-term success as businesses, including enhancing their standing to obtain financial and surety credit. By working with the surety and construction communities, such programs could be put in place quickly. NASBP members in Connecticut have previously participated in bonding education programs for small businesses and are committed to engaging further in them in the future. NASBP would be happy to assist you with creating a bonding workshop for your constituents.

Established federal assistance programs already exist to assist small and minority contractors with obtaining bonding and business assistance. For example, the Office of Surety Guarantees of the U.S. Small Business Administration offers a bond guarantee program aimed at providing bonds to small and emerging construction businesses. Further, the Office of Small and Disadvantaged Business Utilization of the U.S. Department of Transportation offers lending and other programs specifically designed to benefit small and emerging contractors seeking to perform transportation contracts. By removing needed protections and transferring the risk of losses to taxpayers, HB 5487 may be fiscally dangerous. HB 5487, as introduced, does not serve the best interests of the State of Connecticut, its taxpayers, or its many businesses performing as subcontractors and suppliers on public construction projects.

If Connecticut raises its bond threshold to \$200,000, it would have the highest threshold in New England. The other states bond their work at the following levels: Massachusetts, \$25,000; New Hampshire, \$35,000; Rhode Island, \$50,000; Vermont, \$100,000; and Maine, \$125,000. The federal threshold is currently \$150,000. NASBP urges you to leave the bonding threshold at its present level of \$100,000. If you have any questions concerning the issues raised, please feel free to contact me at 202-686-3700 or [lleclair@nasbp.org](mailto:lleclair@nasbp.org).

Respectively submitted for your consideration,

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

Larry LeClair  
Director, Government Relations

cc: Members of the Joint Committee on Planning and Development