

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Construction Bond Act is amended by
5 changing Section 1 as follows:

6 (30 ILCS 550/1) (from Ch. 29, par. 15)

7 Sec. 1. Except as otherwise provided by this Act, all
8 officials, boards, commissions or agents of this State, or of
9 any political subdivision thereof in making contracts for
10 public work of any kind costing over \$5,000 to be performed for
11 the State, or a political subdivision thereof shall require
12 every contractor for the work to furnish, supply and deliver a
13 bond to the State, or to the political subdivision thereof
14 entering into the contract, as the case may be, with good and
15 sufficient sureties. The amount of the bond shall be fixed by
16 the officials, boards, commissions, commissioners or agents,
17 and the bond, among other conditions, shall be conditioned for
18 the completion of the contract, for the payment of material
19 used in the work and for all labor performed in the work,
20 whether by subcontractor or otherwise.

21 If the contract is for emergency repairs as provided in the
22 Illinois Procurement Code, proof of payment for all labor,
23 materials, apparatus, fixtures, and machinery may be furnished
24 in lieu of the bond required by this Section.

25 Each such bond is deemed to contain the following
26 provisions whether such provisions are inserted in such bond or
27 not:

28 "The principal and sureties on this bond agree that all the
29 undertakings, covenants, terms, conditions and agreements of
30 the contract or contracts entered into between the principal
31 and the State or any political subdivision thereof will be
32 performed and fulfilled and to pay all persons, firms and

1 corporations having contracts with the principal or with
2 subcontractors, all just claims due them under the provisions
3 of such contracts for labor performed or materials furnished in
4 the performance of the contract on account of which this bond
5 is given, when such claims are not satisfied out of the
6 contract price of the contract on account of which this bond is
7 given, after final settlement between the officer, board,
8 commission or agent of the State or of any political
9 subdivision thereof and the principal has been made."

10 Each bond securing contracts between the Capital
11 Development Board or any board of a public institution of
12 higher education and a contractor shall contain the following
13 provisions, whether the provisions are inserted in the bond or
14 not:

15 "Upon the default of the principal with respect to
16 undertakings, covenants, terms, conditions, and agreements,
17 the termination of the contractor's right to proceed with the
18 work, and written notice of that default and termination by the
19 State or any political subdivision to the surety ("Notice"),
20 the surety shall promptly remedy the default by taking one of
21 the following actions:

22 (1) The surety shall complete the work pursuant to a
23 written takeover agreement, using a completing contractor
24 jointly selected by the surety and the State or any
25 political subdivision; or

26 (2) The surety shall pay a sum of money to the obligee,
27 up to the penal sum of the bond, that represents the
28 reasonable cost to complete the work that exceeds the
29 unpaid balance of the contract sum.

30 The surety shall respond to the Notice within 15 working
31 days of receipt indicating the course of action that it intends
32 to take. If the surety elects to complete the work with a
33 completing contractor and if the State or any political
34 subdivision determines it is in the best interest of the State
35 to maintain the progress of the work, the State or any
36 political subdivision may continue to work until the completing

1 contractor is prepared to commence performance. The surety
2 shall be liable for reasonable costs incurred by the State or
3 any political subdivision to maintain the progress to the
4 extent the costs exceed the unpaid balance of the contract sum,
5 subject to the penal sum of the bond.".

6 The surety bond required by this Section may be acquired
7 from the company, agent or broker of the contractor's choice.
8 The bond and sureties shall be subject to the right of
9 reasonable approval or disapproval, including suspension, by
10 the State or political subdivision thereof concerned. In the
11 case of State construction contracts, a contractor shall not be
12 required to post a cash bond or letter of credit in addition to
13 or as a substitute for the surety bond required by this
14 Section.

15 When other than motor fuel tax funds, federal-aid funds, or
16 other funds received from the State are used, a political
17 subdivision may allow the contractor to provide a
18 non-diminishing irrevocable bank letter of credit, in lieu of
19 the bond required by this Section, on contracts under \$100,000
20 to comply with the requirements of this Section. Any such bank
21 letter of credit shall contain all provisions required for
22 bonds by this Section.

23 (Source: P.A. 93-221, eff. 1-1-04.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.