

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 \$50,000 ~~\$5,000~~ to be
11 performed for the State, and all officials, boards,
12 commissions, or agents of any political subdivision of this
13 State in making contracts for public work of any kind costing
14 over \$5,000 to be performed for the political subdivision, or a
15 ~~political subdivision thereof~~ shall require every contractor
16 for the work to furnish, supply and deliver a bond to the
17 State, or to the political subdivision thereof entering into
18 the contract, as the case may be, with good and sufficient
19 sureties. The amount of the bond shall be fixed by the
20 officials, boards, commissions, commissioners or agents, and
21 the bond, among other conditions, shall be conditioned for the
22 completion of the contract, for the payment of material used in
23 the work and for all labor performed in the work, whether by

1 subcontractor or otherwise.

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

6 Each such bond is deemed to contain the following
7 provisions whether such provisions are inserted in such bond or
8 not:

9 "The principal and sureties on this bond agree that all the
10 undertakings, covenants, terms, conditions and agreements of
11 the contract or contracts entered into between the principal
12 and the State or any political subdivision thereof will be
13 performed and fulfilled and to pay all persons, firms and
14 corporations having contracts with the principal or with
15 subcontractors, all just claims due them under the provisions
16 of such contracts for labor performed or materials furnished in
17 the performance of the contract on account of which this bond
18 is given, when such claims are not satisfied out of the
19 contract price of the contract on account of which this bond is
20 given, after final settlement between the officer, board,
21 commission or agent of the State or of any political
22 subdivision thereof and the principal has been made.

23 Each bond securing contracts between the Capital
24 Development Board or any board of a public institution of
25 higher education and a contractor shall contain the following
26 provisions, whether the provisions are inserted in the bond or

1 not:

2 "Upon the default of the principal with respect to
3 undertakings, covenants, terms, conditions, and agreements,
4 the termination of the contractor's right to proceed with the
5 work, and written notice of that default and termination by the
6 State or any political subdivision to the surety ("Notice"),
7 the surety shall promptly remedy the default by taking one of
8 the following actions:

9 (1) The surety shall complete the work pursuant to a
10 written takeover agreement, using a completing contractor
11 jointly selected by the surety and the State or any
12 political subdivision; or

13 (2) The surety shall pay a sum of money to the obligee,
14 up to the penal sum of the bond, that represents the
15 reasonable cost to complete the work that exceeds the
16 unpaid balance of the contract sum.

17 The surety shall respond to the Notice within 15 working
18 days of receipt indicating the course of action that it intends
19 to take. If the surety elects to complete the work with a
20 completing contractor and if the State or any political
21 subdivision determines it is in the best interest of the State
22 to maintain the progress of the work, the State or any
23 political subdivision may continue to work until the completing
24 contractor is prepared to commence performance. The surety
25 shall be liable for reasonable costs incurred by the State or
26 any political subdivision to maintain the progress to the

1 extent the costs exceed the unpaid balance of the contract sum,
2 subject to the penal sum of the bond.".

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

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

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.