

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 or advising that it requires more time to investigate  
20 the default and select a course of action. If the surety  
21 requires more than 15 working days to investigate the default  
22 and select a course of action or if the surety elects to  
23 complete the work with a completing contractor that is not  
24 prepared to commence performance within 15 working days after  
25 receipt of Notice, and if the State or any political  
26 subdivision determines it is in the best interest of the State

1 to maintain the progress of the work, the State or any  
2 political subdivision may continue to work until the completing  
3 contractor is prepared to commence performance. Unless  
4 otherwise agreed to by the procuring agency, in no case may the  
5 surety take longer than 30 working days to advise the State or  
6 political subdivision on the course of action it intends to  
7 take. The surety shall be liable for reasonable costs incurred  
8 by the State or any political subdivision to maintain the  
9 progress to the extent the costs exceed the unpaid balance of  
10 the contract sum, subject to the penal sum of the bond.".

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

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

1 bonds by this Section.

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

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.