



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB6100

Introduced 2/11/2010, by Rep. Marlow H. Colvin

#### SYNOPSIS AS INTRODUCED:

30 ILCS 550/1

from Ch. 29, par. 15

Amends the Public Construction Bond Act. Makes a technical change in the provisions requiring bonds from contractors.

LRB096 20808 JAM 36568 b

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 ~~this~~ Act, all  
8 officials, boards, commissions, or agents of this State in  
9 making contracts for public work of any kind costing over  
10 \$50,000 to be performed for the State, and all officials,  
11 boards, commissions, or agents of any political subdivision of  
12 this State in making contracts for public work of any kind  
13 costing over \$5,000 to be performed for the political  
14 subdivision, shall require every contractor for the work to  
15 furnish, supply and deliver a bond to the State, or to the  
16 political subdivision thereof entering into the contract, as  
17 the case may be, with good and sufficient sureties. The amount  
18 of the bond shall be fixed by the officials, boards,  
19 commissions, commissioners or agents, and the bond, among other  
20 conditions, shall be conditioned for the completion of the  
21 contract, for the payment of material used in the work and for  
22 all labor performed in the work, whether by subcontractor or  
23 otherwise.

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

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

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

22           Each bond securing contracts between the Capital  
23 Development Board or any board of a public institution of  
24 higher education and a contractor shall contain the following  
25 provisions, whether the provisions are inserted in the bond or  
26 not:

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

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

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

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

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

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

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

1 (Source: P.A. 95-1011, eff. 12-15-08; revised 10-30-09.)