



Surety & Fidelity

Weekly 

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House Infrastructure Hearings Continue

Funding for an infrastructure package was the focus of the House Ways & Means Committee last week, given it will determine funding for any infrastructure package passed by the House. Like the House Transportation & Infrastructure (T&I) Committee's recent hearing, the purpose was to bring all Members up to speed on the issues, considering the large number of new Members in the House.



Rep. **Peter DeFazio** (D-OR) and Rep. **Sam Graves** (R-MO), Chair and Ranking Minority Member on House T&I, testified. Rep. DeFazio called for an increase in the gas tax and Rep. Graves talked about streamlining the permitting process and moving toward a system of taxing by miles traveled. The U.S. Chamber of Commerce and the AFL-CIO repeated their pitch from the House T&I hearing that if these two organizations can agree that the gas tax needs to be raised, Congress should listen as these organizations rarely agree.

House Democrats have a package of 10 bills that they want to push through this session, and the infrastructure bill is **HR 2**. While there is bipartisan support for fixing America's infrastructure, no consensus exists currently on how to fund it. Many Republican committee members did not attend the hearing. If House Democrats intend to push an infrastructure bill on party lines, that will not bode well for passage in the Senate.

Because small businesses are a driving force in the US economy, Rep. **Nydia Velazquez**, Chair of House Small Business Committee, sought their input in a hearing--*Rebuilding America— Small Business Perspective*. Most of the witnesses focused on the need for rural broadband and low cost cyber security education. The representative from the American Council of Engineering Companies (ACEC), however, addressed the need for infrastructure, fixing the financial problems of the Highway Trust Fund, and encouraging the use of public private partnerships (P3s) as a way to get infrastructure done now. The ACEC representative contended that federal dollars provide more resources to state and local governments that ease congestion, widen the roads and upgrade outdated utilities, all of which spurs economic development at the local level.



Idaho Pursues Replacing License Bonds with a Recovery Trust

Idaho **SB 1007** would repeal the existing requirement for collection agencies, debt counselors, credit counselors, and credit repair organizations to post a surety bond with licensure and replace the bonds with a recovery fund. This week, SFAA and APCIA met with the representatives of the Consumer Finance Bureau, the Finance Department, and the Attorney General's Office. We presented the prequalification benefits of the license bonds and explained how the prequalification of the bond and the recovery fund could work together.

The state banking regulators told us that there has been only one claim in the last 18 years on these bonds and it was for \$100,000, which matched SFAA's data. State banking regulators now are allowing collection agencies, debt counselors, credit counselors and credit repair organizations to file and renew their license applications through the Nationwide Mortgage Licensing System and Registry (NMLSR), which was created for mortgage brokers.

Idaho regulators believe that the use of NMLSR is more efficient than the surety paper record keeping process. They also believe that the NMLSR does the same prequalification process as the sureties, that the system requires the same information on license applicants that the sureties review, and that NMLSR is more up-to-date as licensees have to continually report changes, such as liability claims. Sureties reevaluate annually upon license renewal. The regulators appreciated the information about the bond's prequalification and the built-in incentive for the licensee to comply because of the surety's indemnity.

They will reconsider using the bond and recovery fund, but we learned later that the collection agencies

will oppose the bill if they are required to obtain a bond and pay a fee to the recovery fund, which could kill the bill. The state regulators want their licensing process to be handled through NMLSR and need the support of all affected businesses. Given the Governor's efforts to streamline regulations, it is unlikely that the bonds will be retained.

Campaign to Amend Pennsylvania's Little Miller Act Launches

SFAA, APCIA, and the Insurance Federation of Pennsylvania (IFP) met to address Pennsylvania SB 207, which would eliminate the discretion that local governments have to accept any type of financial security in lieu payment and performance bonds. The Little Miller Act for state projects is 100% payment and performance bonds for projects over \$100,000. The bill, however, would increase the bond threshold for local governments from \$10,000 to \$500,000. In finding the "right" bond threshold to move the bill forward SFAA provided information on the state bond thresholds in the big states to which Pennsylvania compares itself—California, New York, Texas, and New Jersey—and those bond thresholds are all at \$100,000. The IFP also expects to be asked why the state should control local government procurement requirements.



Pennsylvania is one of a handful of states that have separate bond thresholds for state and local governments, and three of those states are Florida, North Carolina and Wisconsin, which all have bond thresholds for the State between \$200,000 and \$500,000. The Little Miller Act applies to state and local governments in a majority of states. The next steps are to take the bond threshold information to the bill sponsors. Fixing the Little Miller Act bond threshold for local governments is the first step in toward amending Pennsylvania's public-private partnership (P3) law, which mirrors the bonding requirements from the local government rather than the State's 100% bonding requirements.



Colorado Senate Bill Requires P3 Bonding

Colorado SB 138 would require bonding for public-private partnerships (P3s) by amending the Little Miller Acts for state and local governments to specify that the bonding requirements would apply to construction contracts that are situated or located on public real property using public or private money, public or private financing, or public real property. The local subcontractors have taken the lead on this bill. SFAA, NASBP, and the Rocky Mountain

Surety Association also worked with the subcontractors in developing this bill. Last week, the local subcontractors addressed SFAA's final concern that the amendments to the Little Miller Act for local governments was unclear on who needs to provide the bonds. One last amendment was made to ensure that the construction contractor would furnish the bonds. The bill passed the Senate and no opposition is expected in the House.

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