



January Session, 2015

**Proposed Substitute
Bill No. 830**

LCO No. 4928

**AN ACT CONCERNING A SURETY BOND GUARANTEE PROGRAM
FOR MINORITY-OWNED BUSINESS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

2 (1) "Contract" means an agreement for work for the state or a
3 municipality that is estimated to cost more than five hundred
4 thousand dollars and is funded, in whole or in part, by state funds;

5 (2) "Emerging contractor" means a contractor that (A) is owned by a
6 minority, (B) has not been prequalified pursuant to section 4a-100 of
7 the general statutes, and (C) is unable to (i) obtain bonding required
8 under section 49-41 of the general statutes, as amended by this act, to
9 bid on a contract or perform work pursuant to a contract for the
10 construction, reconstruction, alteration, remodeling, repair or
11 demolition of any public building or any other public work by the state
12 or a municipality, except a public highway or bridge project or any
13 other construction project administered by the Department of
14 Transportation, or (ii) perform work under such a contract as a
15 substantial subcontractor;

16 (3) "Minority" means "minority" as defined in section 32-9n of the

17 general statutes; and

18 (4) "Substantial subcontractor" means a person who performs work
19 with a value in excess of five hundred thousand dollars for a
20 contractor pursuant to a contract for work for the state or a
21 municipality which is estimated to cost more than five hundred
22 thousand dollars.

23 (b) Not later than October 1, 2015, the Commissioner of
24 Administrative Services shall establish a surety bond guarantee
25 program for emerging contractors. Participation in the program shall
26 satisfy the bond requirements pursuant to subsection (a) of section 49-
27 41 of the general statutes. An emerging contractor shall only be eligible
28 for the surety bond guarantee program for a period not exceeding five
29 years from the date of the emerging contractor's initial application for
30 the program.

31 Sec. 2. Section 49-41 of the general statutes is repealed and the
32 following is substituted in lieu thereof (*Effective October 1, 2015*):

33 (a) Each contract exceeding one hundred thousand dollars in
34 amount for the construction, alteration or repair of any public building
35 or public work of the state or a municipality shall include a provision
36 that the person to perform the contract shall furnish to the state or
37 municipality on or before the award date, a bond in the amount of the
38 contract which shall be binding upon the award of the contract to that
39 person, with a surety or sureties satisfactory to the officer awarding
40 the contract, for the protection of persons supplying labor or materials
41 in the prosecution of the work provided for in the contract for the use
42 of each such person, provided no such bond shall be required to be
43 furnished (1) in relation to any general bid in which the total estimated
44 cost of labor and materials under the contract with respect to which
45 such general bid is submitted is less than one hundred thousand
46 dollars, (2) in relation to any sub-bid in which the total estimated cost
47 of labor and materials under the contract with respect to which such
48 sub-bid is submitted is less than one hundred thousand dollars, or (3)

49 in relation to any general bid or sub-bid submitted by a consultant, as
50 defined in section 4b-55. Any such bond furnished shall have as
51 principal the name of the person awarded the contract.

52 (b) Nothing in this section or sections 49-41a to 49-43, inclusive,
53 shall be construed to limit the authority of any contracting officer to
54 require a performance bond or other security in addition to the bond
55 referred to in subsection (a) of this section, except that no such officer
56 shall require a performance bond in relation to any general bid in
57 which the total estimated cost of labor and materials under the contract
58 with respect to which such general bid is submitted is less than
59 twenty-five thousand dollars or in relation to any sub-bid in which the
60 total estimated cost of labor and materials under the contract with
61 respect to which such sub-bid is submitted is less than fifty thousand
62 dollars.

63 (c) No contract for the construction, alteration or repair of any
64 public building or public work of the state or a municipality that
65 requires a person to supply the state or municipality with a bond may
66 include a provision that requires the person to obtain the bond from a
67 specific surety, agent, broker or producer. No contracting officer may
68 require that a bond be obtained from a specific surety, agent, broker or
69 producer.

70 (d) In the event that any political subdivision of the state enters into
71 a contract described in subsection (a) of this section and fails to obtain
72 delivery from the contractor of the bond required by this section, any
73 person who has not been paid by the contractor for labor or materials
74 supplied in the performance of work under the contract shall have the
75 same legal right of action against such political subdivision of the state
76 as such person would have had against a surety under the provisions
77 of section 49-42. Nothing in this section shall be construed to extend
78 liability to the state for any person's right to payment or constitute a
79 waiver of the state's sovereign immunity.

80 (e) (1) As used in this subsection, "owner-controlled insurance

81 program" means an insurance procurement program under which a
82 principal provides and consolidates insurance coverage for one or
83 more contractors on one or more construction projects.

84 (2) No contract for the construction, alteration or repair of any
85 public building or public work of the state or a municipality may
86 include a provision that allows or requires the state or municipality to
87 maintain an owner-controlled insurance program, except for (A) a
88 project approved pursuant to section 10a-109e, or (B) one or more
89 municipal projects totaling one hundred million dollars or more (i)
90 under the supervision of one construction manager, or (ii) located
91 within the boundaries of a municipality if under the supervision of
92 more than one construction manager.

93 (3) Each contract or policy of insurance issued under an owner-
94 controlled insurance program pursuant to this subsection shall provide
95 that:

96 (A) Coverage for work performed and materials furnished shall
97 continue from the completion of the work until the date all causes of
98 action are barred under any applicable statute of limitations.

99 (B) Any notice of a change in coverage under the contract or policy
100 or of a cancellation or refusal to renew the coverage under the contract
101 or policy shall be provided to the principal and all contractors covered
102 under the program.

103 (C) The effective date of a (i) change in coverage under the contract
104 or policy shall be at least thirty days after the date the principal and
105 contractors receive the notice of change in coverage as required under
106 subparagraph (B) of this subdivision, and (ii) cancellation or refusal to
107 renew shall be at least sixty days after the principal and contractors
108 receive the notice of change in coverage as required under
109 subparagraph (B) of this subdivision.

110 (4) Each principal or contractor shall disclose in the project plans or
111 specifications at the time the principal or contractor is soliciting bids

112 for the construction project that the project will be covered by an
113 owner-controlled insurance program.

114 (f) Whenever a surety bond is required in connection with a contract
115 for the construction, reconstruction, alteration, remodeling, repair or
116 demolition of any public building for work by the state or a
117 municipality, that is estimated to cost more than five hundred
118 thousand dollars and is paid for, in whole or in part, with state funds,
119 the surety contract between the contractor named as principal in the
120 bond and the surety that issues such bond shall contain the following
121 provision: "In the event that the surety assumes the contract or obtains
122 a bid or bids for completion of the contract, the surety shall ensure that
123 the contractor chosen to complete the contract is prequalified pursuant
124 to section 4a-100 of the Connecticut general statutes in the requisite
125 classification and has the aggregate work capacity rating and single
126 project limit necessary to complete the contract".

127 (g) An emerging contractor participating in the surety bond
128 guarantee program established pursuant to section 1 of this act shall
129 not be required to comply with the provisions of this section.

130 Sec. 3. (Effective July 1, 2015) The sum of one hundred thousand
131 dollars is appropriated to the Department of Administrative Services,
132 from the General Fund, for the fiscal year ending June 30, 2016, for the
133 purpose of a grant to establish a surety bond guarantee program for
134 emerging contractors pursuant to section 1 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2015</i>	49-41
Sec. 3	<i>July 1, 2015</i>	New section