



# Surety & Fidelity

Weekly



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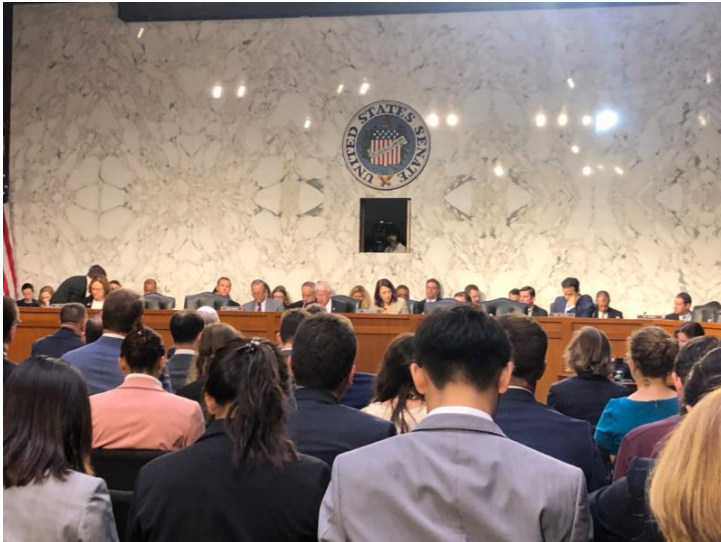


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## New Jersey Includes Bonding Requirements in Proposed P3 Regulations

SFAA and APCIA's bonding provisions were recently included in the proposed regulations from the New Jersey Office of the Treasury to implement a new public-private partnership (P3) law. The P3 law grants broad authority to the State, local governments, and school districts to enter into public-private partnership (P3) agreements for public works projects and revised the existing P3 law for state and

county colleges. The proposed rules mirror the bonding provisions in the statute that SFAA and APCIA obtained, which require the general contractor, construction manager, or design-build team to post a performance bond and a payment bond that complies with the State's Little Miller Act for these projects. These provisions were included as a result of SFAA and APCIA's work in past legislative sessions to address the issues of whether the construction in a P3 needs to be bonded and that the construction contractor is the party that is required to post the bond.



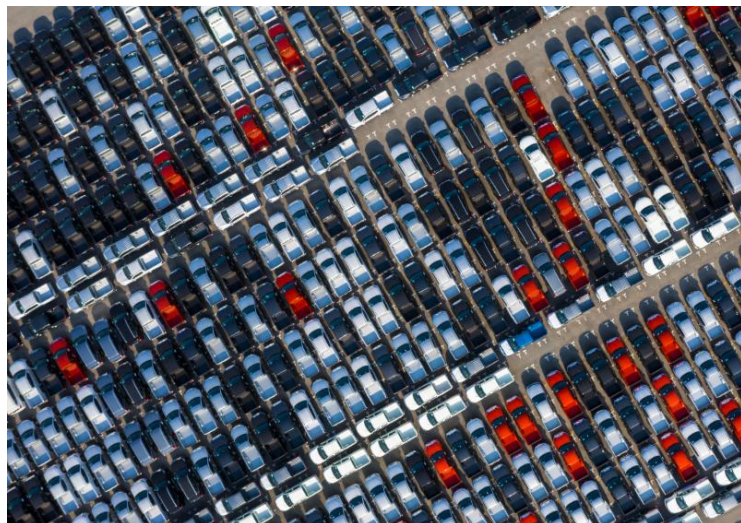
### **SFAA Attends Hearing on Surface Transportation Bill Reauthorization**

Last week the Senate Commerce, Science and Transportation Committee held its first hearing related to reauthorizing the "Fixing America's Surface Transportation (FAST) Act." The committee invited administrators from the Federal Railroad Administration, the Federal Motor Carrier Safety

Administration, the National Highway Traffic Safety Administration and the Department of Transportation to solicit their top safety related priorities for the upcoming FAST act reauthorization. Examining the impact of legalized marijuana on driver safety and permit streamlining for surface transportation projects were top of mind for some Senators in attendance. The committee intends to introduce legislation to reauthorize or extend the FAST Act well in advance of its expiration in 2020.

### **Oregon Motor Vehicle License Bond Bill Passes without Attorney Fee Provisions for Sureties**

Legislation is on the Governor's desk in Oregon under SB 113 to authorize a private action to be brought against a motor vehicle dealer for claims related to its failure to timely transfer vehicle title, registration, or furnish certificates of title after written demand is made by the retail customer to comply with applicable laws. If an action is brought, the court may award reasonable attorney fees to the retail customer who prevails. The bill originally

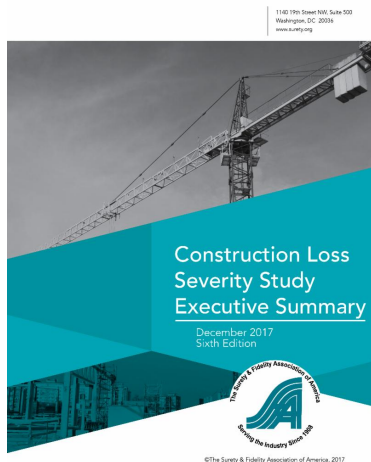


provided that attorney fees would be awarded in claims against both the dealer and the surety when it was introduced. SFAA and APCIA believe clarification was needed for whether the attorney fees would have been included in the penal sum of the bond or imposed in addition to it. Ultimately, the bill was amended so that any attorneys' fees awarded to the retail customer against the dealer would not be enforceable against the bond or surety. Further, under applicable case law that construes the bonding requirement for the dealer, attorneys' fees and punitive damages are not properly awarded against the bond.

## LSA Spotlight: Surety Association of St. Louis

The Surety Association of St. Louis was awarded the Advocacy Award as part of the Surety Industry Awards for the efforts of its members in promoting surety bonding. The Advocacy Award for Excellence in Surety Bond Promotion is presented to the LSA that conduct significant activities advocating for suretyship, other than public relations or educational, such as fighting legislative efforts to waive bonds or increase bond thresholds, or advocating for reasonable bond forms.

The Association won the Advocacy Award for challenging onerous bond language favoring the owner in bid documents for the Wentzville School District. Working with the SFAA, members of the LSA sent letters to the school district leading to the district issuing an amendment changing the language to more favorable terms.



## Reminder: Call for Data

*Reminder: The SFAA has sent a data request for claim and loss information by contractor from all SFAA members for use in updating our Construction Loss Severity model. Submissions are due by September 1, 2019 and should be uploaded [via our website](#).*

## SFAA Weekly Archives

Upcoming Events

Advocacy News

Statistical News

Regulatory News

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[www.surety.org](http://www.surety.org)

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