

# Surety & Fidelity WEEKLY



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## Upcoming Meetings & Events

**Government Affairs Advisory Committee Meeting** on May 10, 2021 from 1:00pm to 2:30pm EST.

**Commercial Surety Advisory Committee Meeting** on May 12, 2021 from 2:00pm to 3:30pm EST.

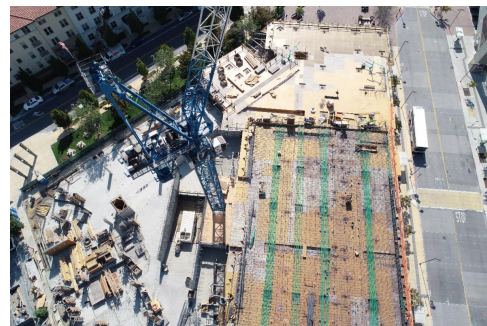
**Board of Directors Meeting** on May 20, 2021 from 1:30pm to 5:30pm EST.



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## SFAA & NASBP Strongly Support Miller Act Indexing Exemption

SFAA and NASBP commend Chairwoman Nydia Velazquez (D-NY) and Congressman Byron Donalds (R-FL) for the introduction of H.R. 2949. This legislation will ensure essential payment protections for subcontractors, suppliers, and workers and ensure performance protections for taxpayers will remain in place on federal



construction contracts of \$150,000 and more. The bill will exempt the Miller Act bond threshold from periodic and arbitrary increases currently required under a broad indexing law.

“Bonding federal infrastructure protects taxpayers’ dollars, ensures project completion, protects local small businesses and workers, and promotes economic growth,” said Lee Covington, president and CEO of the SFAA. “The Miller Act provides essential remedial protections for many small businesses which furnish labor and materials on public work. If the bond threshold is raised, thousands of federal projects will no longer be protected by payment and performance bonds, leaving downstream parties exposed to significant risk of nonpayment if the contractor fails to pay them or goes out of business,” continued

Covington.

The full press release is available [here](#).

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## Senate Passes Bipartisan Water Infrastructure Bill

Last week, the Senate passed a \$35B drinking water and wastewater infrastructure bill with broad bipartisan support on a vote of 89-2. The bill, the Drinking Water and Wastewater Infrastructure Act of 2021, now heads to the House. According to Bloomberg, more than \$35

billion would be authorized for drinking water and wastewater infrastructure projects by S. 914.

The bill would:

- Reauthorize capitalization grants to the Clean Water and Drinking Water state revolving funds and the Water Infrastructure Finance and Innovation Act project financing program.
- Authorize grants from the Environmental Protection Agency to improve drinking water and wastewater systems, including projects to replace lead drinking water pipes.
- Direct a portion of funding to rural and economically disadvantaged areas.

The infrastructure proposals from both the Biden administration and Senate Republicans invest heavily in upgrades to the U.S. water infrastructure.

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## Transportation Construction Coalition to Host 2021 Legislative Fly-In This Month



Later this month, the Transportation Construction Coalition (TCC) will host the 2021 Virtual Legislative Fly-In on May 20 from 1:00 - 3:30pm EST. The TCC Legislative Fly-In will enable members to participate in discussions on President Biden's infrastructure proposal and upcoming plans for FAST Act reauthorization with members of Congress and staff. The TCC, which SFAA serves on the executive committee of, is a group of 32 national associations and construction unions representing hundreds of thousands of individuals with a direct market interest in federal transportation programs.

Registration for the 2021 TCC Virtual Fly-In is available [here](#).

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## SFAA Supports Reversal of Court Decision Against Argonaut Insurance Company – Files Amicus Curiae Brief

On April 21, 2021, SFAA filed an amicus curiae brief in litigation entitled *Argonaut Insurance Company v. Falcon V, L.L.C., et. al.* SFAA's brief was filed in support of Argonaut Insurance Company and reversal of the Bankruptcy Court's

decision. SFAA argued that the court was wrong to decide that Argonaut's bonding program with Falcon V was not an executory contract, and even if it were, it was a non-assumable financial accommodation. In its brief, SFAA contended that the court's decision forced Argonaut to retain residual obligations without the consideration of its Indemnity

Agreement and the right to request collateral, and the decision, if left to stand, will have far-reaching negative ramifications for the surety industry. SFAA is awaiting the decision of the federal District Court whether it will accept SFAA's brief as part of Argonaut's appeal from the Bankruptcy Court.

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## Updated Resources Available to Members



The **Law Library (Case Summary Database)** can be found [here](#).

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