

# THE SURETY & FIDELITY ASSOCIATION OF AMERICA

## MEMORANDUM

**TO:** Government Affairs Advisory Committee  
**FROM:** Daniel Wanke  
**RE:** Commercial Surety Legislation  
**DATE:** June 4, 2010

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There are 10 states and the District of Columbia in regular session. The following report compiles and summarizes commercial surety legislation under consideration in 2010, which SFAA is tracking and addressing, as necessary, with the AIA and the local surety associations. Summaries of legislation that have appeared in previous SFAA reports have been marked (♦) for your convenience. The status of such legislation is being updated in this report.

California, Delaware, Louisiana, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio and the District of Columbia are in session. The vast majority of the state legislative sessions have ended for 2010. SFAA is producing an End of Session Report for each state that has adjourned. Completed reports can be found on the Government Relations page of the SFAA Member Access website ([www.surety.org](http://www.surety.org)). The following is a compilation of legislation currently pending that would impact commercial surety bonds. As always, if you have any questions, comments or information on legislation, please do not hesitate to contact us.

### CALIFORNIA

#### ♦ AB 350: License Bond—Debt Settlement Service Providers

**INTRODUCED:** 02/19/2009

**STATUS:**

04/05/2010 From Senate Committee on Judiciary with Author's Amendments.

**POSITION:** Support—New Bonding Opportunity

SB 350 would require debt management service to obtain a \$50,000 surety bond in connection with licensure. Originally, the Commissioner of Corporations (Commissioner) would have determined the amount required, but the bill recently was amended to specify the \$50,000 bond amount and to permit an irrevocable letter of credit, bonds or other obligations of the United States or guaranteed by the United States, or bonds or other obligations of the State or a political subdivision of the State to be accepted in lieu of the surety bond. Originally, only an insurance policy would have been accepted in lieu of a bond, but this was eliminated with the recent amendments. A provision permitting direct actions on the bond also was eliminated. The surety

bond would have to remain in effect until it is cancelled by the surety. The bond would be for the recovery of losses or damages incurred by individuals as the result of a licensee's noncompliance with the law or for the recovery of expenses, fines, and fees levied by the Commissioner, a district attorney, city attorney, or the Attorney General.

**AB 1369: Miscellaneous Bond—Electronic Monitoring for Inmates**

**INTRODUCED:** 02/27/2009

**STATUS:**

05/27/2010 In Senate. To Third Reading.

05/27/2010 Re-referred to Senate Committee on Rules.

**POSITION:** Support—New Bonding Opportunity

AB 1369 would provide for electronic monitoring programs for minimum-security inmates and low-risk offenders committed to a county jail or other county correctional facility or granted probation, and inmates participating in a work furlough program. Private agencies running such a program would have to demonstrate evidence of financial responsibility to indemnify the county for "reasonably foreseeable public liability, including legal defense costs that may arise from or be proximately caused by, acts or omissions of the contractor." Surety bonds would be accepted to fulfill this requirement as would either a liability insurance policy or an errors and omissions insurance policy. The bill did not impact surety as introduced, but was recently amended in the Senate to include these provisions.

**AB 1912: Public Officials and Miscellaneous Bonds**

**INTRODUCED:** 02/16/2010

**STATUS:**

05/28/2010 From Assembly Committee on Appropriations: Do Pass.

05/28/2010 In Assembly. To Third Reading.

**POSITION:** Support—New Bonding Opportunity

AB 1912 would create the California Apiary Research Commission (Commission) to promote research and education on California's bee industry. The bill would require a \$25,000 fidelity bond for agents handling the Commission's funds. A surety bond also could be required from those failing to pay the assessments that the new law charges honey producers with 50 or more colonies. The Commission would determine the amount required for this bond. As originally introduced, the bill did not impact surety bonds, but it was amended to include these provisions recently in the Assembly.

**◆ AB 2267: License Bond—Contractors**

**INTRODUCED:** 02/18/2010

**STATUS:**

05/04/2010 In Assembly Committee on Business, Professions and Consumer Protection: Not Heard.

**POSITION:** Support

AB 2267 would cap the amount of a contractor's license bond that a material supplier could recover to \$4,000. Current law requires contractors to obtain a \$12,500 surety bond in connection with licensure.

**AB 2288: Miscellaneous Bond—Securities Issuers**

**INTRODUCED:** 02/18/2010

**STATUS:**

04/19/2010 In Assembly Committee on Banking and Finance: Failed Passage.

04/19/2010 In Assembly Committee on Banking and Finance: Reconsideration Granted.

**POSITION:** Support—New Bonding Opportunity

AB 2288 would require issuers of securities that engage in "hard money lending" to post a surety bond in an amount not less than 10% of the amount of the issuer's total pooled investment. The bond amount would have to be adjusted if new investments are made to ensure that they are covered. The bond would be for the recovery of expenses, fines, and fees, or for losses or damages that investors incurred as a result of an issuer's default.

The bill would define "hard money lending" as the "offering or selling of a limited or general partnership, limited liability company, limited liability partnership trust, joint venture, unincorporated association, or similar organization formed and operated for the primary purpose of investing in mortgage loans, commercial property loans, and construction loans." As introduced, the bill had no impact on surety, but it was amended in committee to contain these provisions.

**◆ AB 2496: Miscellaneous Bond—Tobacco Manufacturers**

**INTRODUCED:** 02/19/2010

**STATUS:**

05/24/2010 In Assembly. To Third Reading.

**POSITION:** Support with Amendments to Adverse Selection

AB 2496 would require "nonparticipating tobacco manufacturers" to post a bond to be listed in the State's directory of tobacco manufacturers and cigarette brands. Nonparticipating manufacturers do not participate in the Master Settlement Agreement and instead place funds in escrow. Such manufacturers also could be required to post a bond if they have been determined to pose an elevated risk for noncompliance with the law. The bond would have to be in the amount of \$50,000, or the amount the manufacturer would be required to deposit due to the largest of its most recent five calendar year's sales in California, whichever would be greater.

**AB 2499: Miscellaneous Bond**

**INTRODUCED:** 02/19/2010

**STATUS:**

05/28/2010 From Assembly Committee on Appropriations: Do Pass.

05/28/2010 In Assembly. To Third Reading.

**POSITION:** Support

AB 2499 did not have any impact on surety as introduced, but was amended in committee recently. The bill would increase the bond required for owners of traffic violator schools from \$2,000 to \$15,000.

◆ **AB 2789: License Bond—Money Transmitters**

**INTRODUCED:** 03/09/2010

**STATUS:**

05/06/2010 Passed Assembly. To Senate.

**POSITION:** Support with Amendments to Shorten Claims Period

AB 2789 would rewrite the current law for money transmitters. Current law requires such persons to be licensed and provide a security deposit or surety bond. The bond must be in the amount that the Commissioner of Financial Institution (Commissioner) requires. The bill would specify the amount required by statute instead. Licensees that sell or issue payment instruments or stored value must post a bond in an amount not less than \$500,000 or 50% of the average daily outstanding payment instrument and stored value obligations in California, whichever would be greater. The bond would be capped at \$2 million. Licensees that receive money for transmission must post a bond in an amount greater than the average daily outstanding obligations for money received. The bond could not be less than \$250,000 or more than \$2 million. The bill also would require the bond to cover claims for as long as the Commissioner specified, but for at least four years after the licensee ceases to provide money transmitter services in California.

◆ **SB 392: Miscellaneous Bonds—Limited Liability Companies**

**INTRODUCED:** 02/26/2009

**STATUS:**

03/25/2010 From Assembly Committee on Judiciary with Author's Amendments.

**POSITION:** Neutral

SB 392 would require contractors organized as LLCs to post a \$100,000 bond as a condition of an LLC business license. Originally, the bill would have required a \$50,000 bond. The bond would be for the benefit of any employee damaged by his or her employer's failure to pay wages, interest on wages, or fringe benefits. Further, if the licensee is a party to a collective bargaining agreement, the bond would have to cover welfare fund contributions, pension fund contributions, and apprentice program contributions. The bill also would exempt qualifying individuals from the contractor license bond requirements if the individual held a 10% membership interest in limited liability partnership. Current law requires a surety bond in the amount of \$12,500 for contractors.

Originally, the bill also would have changed the minimum security requirements for contractor businesses organized as limited liability companies (LLCs). Current law requires such companies to maintain insurance policies or a form of security for payment of any liabilities that arise from claims based on acts, errors, or omissions of the partnership for which surety bonds are accepted. The bill was amended so that the changes were eliminated and the current law will remain intact.

**SB 550: Financial Assurance—Oil, Gas & Mining Operations**

**INTRODUCED:** 02/27/2009

**STATUS:**

04/08/2010 In Assembly. Read Third Time and Amended. To Third Reading.

04/08/2010 Re-Referred to Assembly Committee on Rules.  
05/28/2010 Re-Referred to Assembly Committee on Natural Resources.

**POSITION:** Neutral

SB 550 would require an operator of an oil and gas operation or a mining operation to obtain insurance or post an "indemnity bond." The bond would secure the costs of cleanup for any adverse environmental impact that resulted from the operator's drilling activity. The insurance policy or indemnity bond would have to be for at least \$10 million. If the drilling operation was within 1,000 feet of groundwater, the policy or bond would have to be for at least \$25 million and it specifically would have to provide coverage for damages to the groundwater. As introduced, the bill did not impact surety bonds, but it was amended in the Assembly to include these provisions.

**SB 1008: Miscellaneous Bond—Engineering & Land Surveying Partnerships**

**INTRODUCED:** 02/10/2010

**STATUS:**

05/17/2010 Passed Senate. To Assembly.

**POSITION:** Neutral

SB 1008 would amend existing law, which requires every registered limited liability partnership and foreign limited liability partnership to provide specified security for claims arising out of the practice of architecture. The law requires such partnerships to maintain insurance policies or securities for payment of any liabilities that arise from claims based on acts, errors, or omissions of the partnership. The securities may be in a trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies.

The bill would repeal an existing provision, which provides that the total aggregate limit of liability under the insurance or security must be for \$100,000 multiplied by the number of licensed persons, but not less than \$500,000 for partnerships with five or fewer licensees, and not more than \$5,000,000 for all other partnerships. The bill would amend the current requirement for firms with five or more licensees, which is a total aggregate limit of liability of not less than \$1,000,000 for partnerships with five or fewer licensees. The bill provides that the total aggregate limit of liability would be an amount not less than \$1,500,000 for partnerships with five or fewer licensees. For partnerships with more than five licensees, the policy or securities increase to an additional \$100,000 for each additional licensee up to \$5,000,000 under current law. The bill would extend this current requirement to engineering and land surveying partnerships as well. As introduced the bill did not include these provisions, but they were added shortly before the bill passed the Senate.

◆ **SB 1098: Athlete Agents**

**INTRODUCED:** 02/17/2010

**STATUS:**

05/28/2010 In Senate. To Third Reading.

**POSITION:** Neutral

SB 1098 would rewrite the law for athlete agents. Currently, athlete agents must provide security

for claims against the agent for acts, errors or omissions that occurred in the course of his or her business. Surety bonds are accepted to fulfill this requirement among several other forms of security. This law would be repealed and instead, the bill would require agents to maintain a trust fund if the agent receives a professional athlete's salary payments on his or her behalf. The payments would have to be deposited into the fund. The bill provides that the Department of Industrial Relations could require agents receiving any payments on an athlete's behalf to post a surety bond. The bond amount would be determined by regulations.

**SB 1223: Escrow Agents**

**INTRODUCED:** 02/18/2010

**STATUS:**

04/29/2010 Passed Senate. To Assembly.

05/27/2010 From Assembly Committee on Banking and Finance with Author's Amendments.

05/27/2010 In Assembly. Read Second Time and Amended.  
Re-Referred to Committee on Banking and Finance.

**POSITION:** Neutral

SB 1223 would require that the surety for an escrow agent's bond provide notice to the Commissioner of Corporations and to the Fidelity Corporation of any release, substitution, cancellation, withdrawal, or nonrenewal of a bond. Current law requires escrow agents to post a bond in connection with licensure and be a member of the Fidelity Corporation. The bill did not contain these provisions as introduced, but was amended in the Assembly to include them.

**ILLINOIS**

**◆ HB 4781: License Bond—Debt Settlement Providers**

**INTRODUCED:** 01/12/2010

**STATUS:**

05/06/2010 Passed Both Houses.

**POSITION:** Support—New Bonding Opportunity

HB 4781 would require debt settlement providers to be licensed and post a surety bond. Originally, the bill would have required a minimum \$1 million, but the bill was amended to reduce the proposed bond amount to \$100,000. The Director of the Division of Financial Institutions could require a larger bond amount based on the disbursements that the provider made in the previous year. The bond would have to be issued by an insurance company licensed in the State to transact the business of fidelity and surety insurance. SFAA and AIA worked on obtaining amendments to the bond amount.

**HB 6359: Tax Bond**

**INTRODUCED:** 02/18/2010

**STATUS:**

05/05/2010 To Governor.

**POSITION:** Oppose—Adverse Selection

HB 6359 would alter the bond required in connection with a certificate of registration to sell tangible property in the State. Current law mandates a surety bond or other security conditioned on the payment of all taxes due to the State, a county or a municipality. The bill would allow the

Department of Revenue (Department) to have discretion in requiring the bond and would set the parameters for considering whether the bond should be required. The Department must consider whether the registrant has defaulted on the money due or if the certificate of registration has been revoked in the past five years. This bill was in response to a State Auditor's report that showed that bond requirement had not been enforced.

◆ **SB 660: License Bond—Public Adjusters**

**INTRODUCED:** 02/06/2009

**STATUS:**

05/04/2010 Passed Both Houses.

**POSITION:** Support

SB 660 would enact the new NAIC model legislation for public adjusters. The bill would increase the current bond for such licensees from \$5,000 to a minimum amount of \$20,000. The bill also would allow for an irrevocable letter of credit to be furnished, which current law does not permit. The bond would have to be in favor of the State and authorize the Director of Insurance to make recovery on behalf of any person sustaining injury from the erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices in his or her official capacity. As introduced, this bill had no impact on surety, but it was amended in the Senate to include these provisions.

**SB 2996: Financial Institutions**

**INTRODUCED:** 02/03/2010

**STATUS:**

06/03/2010 To Governor.

**POSITION:** Oppose—Repeals Bond Requirement

SB 2996 is an overhaul of the banking laws in Illinois. The bill would repeal the bond requirement for the supervisors, examiners, experts and special assistants that the Secretary of Financial and Professional Regulation and the Commissioner of Banks and Real Estate are each authorized to employ or appoint to carry out their duties to supervise certain financial institutions. Current law requires a minimum \$15,000 bond conditioned on the faithful performance of the employee or appointee's duties.

The bill also provides for new receivership procedures for savings and loan associations. The receiver would have to be bonded. Further, any depository in which the receiver places funds would have to post a surety bond or other security to assure payment of the funds deposited.

The bill would have imposed additional requirements on pawnbrokers to obtain a surety bond in an amount equal to two times the aggregate amount of loans that the licensee made. An insurance policy would have been accepted in lieu of a bond. The bill would have required the pawnbroker to replace any articles or property that has been lost or rendered inoperable. SFAA, AIA and CNA Surety all worked in opposition to this onerous requirement since a bond in this amount likely would not have been available. As sent to the Governor, the bill requires an insurance policy only.

◆ **SB 3682: License Bond—Driver Exam Training Schools**

**INTRODUCED:** 02/11/2010

**STATUS:**

05/21/2010 To Governor.

**POSITION:** Neutral

SB 3682 would change the license bond required for a qualified driver exam training school. Current law requires a \$20,000 license bond. Instead, the bill would require a \$10,000 bond for a non-accredited school; a \$40,000 bond for a commercial driver's license (CDL) or teenage accredited school; a \$60,000 bond for a CDL accredited and teenage accredited school; a \$50,000 bond for a CDL or teenage accredited school with three or more licensed branches; and a \$70,000 bond for a CDL accredited and teenage accredited school with three or more licensed branches.

**KANSAS**

◆ **SB 508: Discount Card Suppliers**

**INTRODUCED:** 02/02/2010

**ENACTED:** 03/24/2010

SB 508 eliminates the "surety account" required in addition to the \$50,000 surety bond for suppliers of discount cards. The new law became effective upon enactment.

**LOUISIANA**

**HB 25: Appeal Bond Exemptions**

**INTRODUCED:** 03/29/2010

**STATUS:**

04/26/2010 Passed House. To Senate.

**POSITION:** Neutral

HB 25 would exclude the Louisiana Citizens Property Insurance Corporation from appeal bond requirements. Existing law already exempts other public entities.

**HB 579: Tax Bond**

**INTRODUCED:** 03/29/2010

**STATUS:**

05/05/2010 Passed House. To Senate

**POSITION:** Seeking Amendments

HB 579 would require at least 75% of a terminal operator's principals to comply with the existing tax bond waiver criteria for motor fuel taxes in order for the operator to obtain the exemption. Current law allows the Secretary of the Department of Revenue to waive the bond requirement if the operator maintains assets in Louisiana that have a net value of not less than 125% of the amount of the bond requirement, has had a bond on file for not less than three years and if the operator has not been delinquent in his or her tax payments in the three years preceding the application for a waiver.

**HB 924: Public Officials**

**INTRODUCED:** 03/29/2010

**STATUS:**

03/29/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 924 would establish the Tax Court. The clerk of the court would have to post a \$10,000 surety bond to secure the faithful performance of the duties of his or her office.

**HB 1164: Permit Bond—Sand, Gravel & Limestone Businesses**

**INTRODUCED:** 03/29/2010

**STATUS:**

03/29/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1164 would require a permit to operate a business or other commercial enterprise to sell sand, gravel, or limestone. A minimum \$10,000 performance bond or other security would be required. Further, persons conducting operations developing sand, gravel or limestone also would have to obtain a permit and provide a minimum \$100,000 performance bond or other security. The bonds for both permits would secure the reclamation of the disturbed property that was affected by the operations of the permit holder.

**SB 130: Miscellaneous Bond—Child Support Collection Agencies**

**INTRODUCED:** 03/29/2010

**STATUS:**

04/26/2010 Passed Senate. To House.

05/19/2010 From House Committee on Civil Law and Procedure:  
Reported with Amendment.

05/24/2010 Legislative Bureau Amendments Adopted.

**POSITION:** Support—New Bonding Opportunity

SB 130 would require private child support collection agencies to register and post a \$50,000 surety bond or cash deposit. The surety bond would have to be issued by a surety company licensed in the State, and it would be conditioned on compliance with the proposed law as well as the faithful performance of the agency's agreements with its clients. The recent amendments did not impact the proposed bond requirement.

**SB 655: Financial Security—Land Location Wells**

**INTRODUCED:** 03/29/2010

**STATUS:**

03/29/2010 Introduced.

**POSITION:** Support

SB 655 would specify the amount of financial security required for land location wells. Existing law requires a bond to secure the plugging of each dry or abandoned well and the performance of the required site cleanup. The bill provides that the bond amount would be based on the number of wells as follows: for 1 to 10 wells, the bond would have to be for \$25,000; for 11 to 30 wells, \$50,000; for 31 to 50 wells, \$75,000; 51 to 70 wells, \$100,000; for 71 to 100 wells \$125,000; and for more than 100 wells the bond would have to be for \$250,000.

## MASSACHUSETTS

### ◆ **HB 89: Uniform Commercial Code**

**INTRODUCED:** 01/07/2009

**STATUS:**

05/13/2010

From Joint Committee on Economic Development and Emerging Technologies: Ought To Pass.

**POSITION:** Neutral

HB 89 would amend Massachusetts' Uniform Commercial Code to conform to the Restatement of the Law of Surety by the American Law Institute. Among the several revisions, a surety would be further defined to include any "other secondary obligor" in addition to the existing definition as a "guarantor."

### ◆ **HB 290: Miscellaneous Bond—Vendors**

**INTRODUCED:** 01/19/2009

**STATUS:**

03/16/2010

In Joint Committee on Consumer Protection and Professional Licensure: Set Aside for Study.

**POSITION:** Support—New Bonding Opportunity

HB 290 would require vendors conducting retail sales or services in a booth, tent, table, kiosk, or other space that is not the vendor's fixed building site to post a surety bond from a licensed insurance or surety company. The bond would have to guarantee repayment of a consumer's purchase price in the event of a return. The bond would have to be in place for one year from date of the vendor's sublease or from the issuance of the vendor's license. Of note, the bond would have to guarantee a minimum return amount of up to \$1,000 for a single purchase.

### ◆ **HB 970: License Bond—Money Transmitters**

**INTRODUCED:** 01/19/2009

**STATUS:**

03/22/2010

In Joint Committee on Financial Services: Extension Order Filed. Extended until 07/31/2010.

**POSITION:** Support—Seeking Clarification on Claims Period

HB 970 would re-write current law concerning money transmitters to apply to both transactions within the U.S. and to foreign countries. Existing law requires a surety bond in an amount equal to twice the money transmitter's average weekly amount of money or its equivalents transmitted to foreign countries, but not less than \$50,000. The bill would base the bond amount on the number of business locations for the money transmitter, requiring a bond in the amount \$50,000 plus \$10,000 per location. The bond would be capped at \$450,000. Alternative forms of security are accepted under existing law. Of note, the bill would limit the surety's aggregate liability to the principal amount of the bond. The bill also would require the bond to be available for a minimum of five years for the filing of claims, which would begin when the licensee ceased to provide money services in the State. Substitutions for or reductions of the bond would be permitted during this period. Existing law already permits direct actions on the bond.

◆ **HB 1428: Court Bond—Contract Profits from Crime**

**INTRODUCED:** 01/19/2009

**STATUS:**

03/22/2010

In Joint Committee on Judiciary: Set Aside for Study.

05/19/2010

From Joint Committee on Judiciary: Accompanied Study Order HB 4691.

**POSITION:**

Neutral

HB 1428 would require a contracting party to submit a copy of its contract or a summary of the terms of any oral agreement to the Division of Victim Compensation and Assistance (Division) within 30 days of the agreement if the contracting party contracts for, pays or agrees to pay a defendant or his representative consideration and knew or reasonably should have known that such consideration was from the proceeds of a crime. The bill would require the contracting party to file a bond, executed by a surety company licensed in the Commonwealth in an amount equal to any proceeds of the crime that otherwise would be owed to a defendant or his representative. The bond would be retained until the Division made its determinations concerning such proceeds.

◆ **HB 2127: Public Officials**

**INTRODUCED:** 01/19/2009

**STATUS:**

03/16/2010

In Joint Committee on Public Health: Set Aside for Study.

**POSITION:**

Support—New Bonding Opportunity

HB 2127 would create a Universal Health Care Trust Fund (Trust) for the Commonwealth. Officers and employees of the Trust that have access to its funds would be required to post a surety bond in the amount the Board of Trustees of the Trust required. Blanket and schedule bonds would be acceptable for covering such persons that would be required to be bonded.

◆ **HB 2707: Miscellaneous Bond—Scholarship Organization**

**INTRODUCED:** 01/19/2009

**STATUS:**

03/22/2010

In Joint Committee On Revenue: Set Aside For Study.

**POSITION:**

Support—New Bonding Opportunity

HB 2707 would establish the Great Schools Tax Credit Program to provide scholarships to low-income students to attend qualified public and non-public schools. The bill would require scholarship granting organizations to demonstrate their financial viability if they would receive more than \$50,000 in donations during the school year through either the submission of financial information demonstrating such viability or by posting a surety bond. The surety bond would have to be in an amount equal to the aggregate amount of contributions that the school expected to receive during the school year.

◆ **HB 3040: Registered Bond Indemnity**

**INTRODUCED:** 01/19/2009

**STATUS:**

03/22/2010

In Joint Committee on State Administration and Regulatory Oversight: Set Aside for Study.

**POSITION:** Oppose—Repeals Bond Requirement

HB 3040 provides that the registered owner of a Commonwealth of Massachusetts registered bond certificate that has been lost or stolen would not be required to provide any security, nor any surety or indemnity in any amount.

◆ **HB 3702: Public Officials—Town of Beckett**

**INTRODUCED:** 01/19/2009

**ENACTED:** 05/20/2010

HB 3702 creates the Sherwood Forest Lake District in the Town of Beckett. The District treasurer must post a surety bond to secure the performance of the duties of office.

◆ **HB 3915: Wholesale Prescription Drugs**

**INTRODUCED:** 03/20/2009

**STATUS:**

03/16/2010 In Joint Committee on Public Health: Set Aside for Study.

**POSITION:** Support—New Bonding Opportunity

HB 3915 would require wholesale drug distributors to be licensed and post a \$100,000 surety bond, irrevocable letter of credit or a deposit in a trust account or financial institution in connection with licensure. The bond would secure the payment of any fines or penalties that the Board of Registration in Pharmacy (Board) incurred, and any fees and costs that the Board incurred regarding the license, which the licensee failed to pay 30 days after they became final. The Board would be able to make a claim against the bond or security until one year after the licensee's license ceases to be valid. The bond would cover all facilities that the licensee operated in the State.

◆ **HB 4138: Public Officials**

**INTRODUCED:** 06/25/2009

**STATUS:**

04/27/2010 In Joint Committee on Health Care Financing: Set Aside for Study.

04/29/2010 From Joint Committee on Health Care Financing: Accompanied Study Order HB 4638.

**POSITION:** Support—New Bonding Opportunity

HB 4138 would create the Cape Care Community Health Trust (Trust). The bill would require all of the Trust's officers and employees that have access to its cash or negotiable securities to post a bond in an amount and with such surety as the Trust's Board of Trustees prescribed. The persons required to post the bond could be included in one or more blanket or scheduled bonds.

**HB 4610: Public Officials**

**INTRODUCED:** 04/08/2010

**STATUS:**

05/19/2010 Passed House. To Senate

**POSITION:**

HB 4610 would establish a consolidated regional public safety communications center for the towns of Cohasset, Hingham, Hull and Norwell and a board of directors to run the center. The

board's treasurer would have to post a bond to secure the faithful performance of his or her duties.

◆ **HB 4619: Casinos**

**INTRODUCED:** 04/14/2010

**STATUS:**

04/14/2010 Passed House. To Senate.

**POSITION:** Support—New Bonding Opportunity

HB 4619 would create the Massachusetts Gaming Authority (Authority). The bill would require category 1 license applicants to invest not less than \$500 million for resort casinos, including the gaming facility, at least 1 hotel, and other amenities as proposed in the application for a category 1 license. The licensee would have to deposit 10% of the total investment into an interest-bearing escrow account. The funds would be held until the final stage of construction. The bill provides that a bond insuring that 10% of the “proposed capital investment shall be forfeited to the Commonwealth” would be accepted in lieu of the escrow account.

The bill further provides that licensees and registrants that initiate a judicial review of the final assessment for a civil administrative penalty issued against them would have to place the full amount of the assessment in an escrow account during the court proceedings. If the party seeking the review can demonstrate that there is a substantial question for review or an inability to pay, the court could waive the escrow requirement, grant an extension for it or require a bond in an amount equal to 125% of the assessed penalty. If the penalty is affirmed in a case where a bond was posted, then the penalty must be paid with the interest due at that time. If the penalty is not paid when a bond was posted, then the licensee or registrant would be liable for up to three times time penalty amount, plus the costs of the proceedings, interest due and all attorneys' fees.

The bill originally would have required the Authority's officers and employees who have access to its cash or negotiable securities to be bonded. Blanket or schedule bonds would have been acceptable to fulfill this requirement. The bill also would have required the adoption of licensing and bonding requirements for such facilities through rules. These provisions were eliminated when the bill was recently re-drafted prior to passing the House.

◆ **SB 895: Metro West Public Health District**

**INTRODUCED:** 01/19/2009

**STATUS:**

03/16/2010 In Joint Committee on Public Health: Set Aside For Study

**POSITION:** Support—New Bonding Opportunity

SB 895 would create the Metro West Public Health District (district). The treasurer for the district's board would have to post a surety bond from a surety company authorized to do business in the Commonwealth to secure the performance of the duties of office. The district board will determine the amount required.

◆ **SB 1801/HB 2929: Tax Bond—Marijuana Sales**

**INTRODUCED:** 01/19/2009

**STATUS:**

04/05/2010 In Joint Committee on Judiciary: Extension Order Filed.  
Extended until 05/07/2010.

**POSITION:** Support—New Bonding Opportunity

SB 1801/HB 2929 would regulate the cannabis industry through licensing and taxation in order to control the use of marijuana in the Commonwealth. The bill would require cannabis processors to be licensed and to affix a tax stamp to each cannabis package prior to its sale that demonstrates that the excise taxes have been paid, similar to tax stamps on tobacco products. Stamps could be issued to the processor on credit so long as the licensee posted a surety bond or other security. The bond would secure the payment of the excise tax that the bill would impose. **HB 2929** was set aside for study in the Joint Committee on Revenue.

◆ **SB 2073: Public Officials**

**INTRODUCED:** 06/04/2009

**ENACTED:** 04/02/2010

SB 2073 creates the Sandwich Economic Initiative Corporation and requires the treasurer of its board of directors (board) to be bonded to secure the faithful performance of his or her duties. The board will determine the amount required. The new law became effective upon enactment.

◆ **SB 2380: Public Officials**

**INTRODUCED:** 02/08/2010

**STATUS:**

04/08/2010 Passed Senate. To House.

**POSITION:** Support—New Bonding Opportunity

SB 2380 would create the Health and Educational Facilities Authority (Authority). The bill would require the Authority's chairman, vice chairman, executive director and assistant executive director and any other member of the authority that handled the Authority's funds or signed its checks to post a \$50,000 surety bond. The Authority's chairman could obtain a blanket position bond covering the executive director and every member and other employee of the authority in the penal sum of \$50,000. The bonds would be conditioned on the faithful performance of the duties of office and would have to be issued by a surety company authorized in the Commonwealth to transact surety business.

## MICHIGAN

**HB 6145: Miscellaneous Bond—Nursing Homes**

**INTRODUCED:** 05/06/2010

**STATUS:**

05/06/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 6145 would require a surety bond to obtain a certificate of need for acquiring or operating a nursing home or to change the bed capacity in the home. The bond would have to be in an amount that is equal to or exceeds the total cost of acquiring or beginning operation of the nursing home or the cost of changing bed capacity. The bond cannot be less than \$25,000 or greater than \$250,000, however. The bond would be conditioned on the continued operation of the nursing home. Cash, securities, a letter of credit, or the assignment of coverage of other bonds would be accepted in lieu of a surety bond.

**HB 6159: Miscellaneous Bond—Off-Highway Vehicles**

**INTRODUCED:** 05/12/2010

**STATUS:**

05/12/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 6159 would require owners of off-highway vehicles (OHV) to obtain a certificate of registration from the Department of State for the OHV. The bill would authorize the Secretary of State to require a surety bond if he or she is not satisfied with the proof of ownership submitted for an OHV worth more than \$2,500. The bond would have to be in an amount equal to twice the value of the OHV. Direct actions on the bond would be permitted, but the aggregate liability of the surety would not exceed the bond amount. The bond would be conditioned to indemnify persons suffering damages resulting from the issuance of the certificate of registration. The term of the bond would be for three years.

**SB 157: License Bond—Animal Waste Handlers**

**INTRODUCED:** 01/29/2009

**STATUS:**

03/23/2010 From Senate Committee on Agriculture and Bioeconomy:  
Recommended as Substituted.

**POSITION:** Support—New Bonding Opportunity

SB 157 would require commercial and primary animal waste handlers to post a license bond of at least \$25,000 from a surety company licensed in the State, payable to the State of Michigan. The bond would be conditioned on compliance with the applicable state and federal laws, rules and regulations.

**◆ SB 1057: Miscellaneous Bond—Permit Distributors**

**INTRODUCED:** 01/13/2010

**ENACTED:** 03/31/2010

SB 1057 provides for the issuance of various motor vehicle park permits for Michigan's state parks. The new law allows the Department of Natural Resources to designate persons in the State to sell the permits. A surety bond is required as a condition of the designation if the person is not a Department employee. The Department will determine the amount required. The new law became effective upon enactment.

**◆ SB 1288: License Bond—Debt Management Service Providers**

**INTRODUCED:** 04/27/2010

**STATUS:**

04/27/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments on "A" Rated Surety Requirement

SB 1288 would enact the Uniform Debt Management Services Act of the National Conference of Commissioners of Uniform State Law. The bill would require debt-management service providers to post a \$50,000 surety bond. The Commissioner of the Office of Financial and Insurance Regulation could increase or decrease the required amount of the bond based certain conditions of the licensee. Of note, the bill would require sureties to have an "A" rating from a

nationally recognized rating service and licensed in the State. The bond would run to the State for the benefit of the State and individuals who enter into agreements with the provider. The bond would have to be effect for an additional two years after the registrant stops performing debt-management services in Michigan. The bill would allow a certificate of insurance, bonds or other obligations of the United States or the State, or a letter of credit to be furnished in lieu of a surety bond. SFAA has written a letter to the bill sponsor about the requirement of an "A" rated surety.

Existing law requires a surety bond in an amount equal to or greater than the total amount of Michigan clients' funds in the licensee's trust account at the time of application for license or renewal. The bond cannot be less than \$25,000 or be greater than \$100,000. The bond is conditioned upon the faithful accounting of all money collected upon accounts entrusted to a licensee engaged in the business of debt management or the licensee's employees and agents. No other forms of security are permitted.

## **MINNESOTA**

### **◆ SB 184: Miscellaneous Bond—Post-Secondary Institutions**

**INTRODUCED:** 01/22/2009

**ENACTED:** 05/18/2010

SB 184 permits alternative forms of security for the existing bond required of post-secondary institutions that have fallen below the U.S. Department of Education's minimum financial standards to participate in Title IV programs. Current law requires a surety bond in an amount not less than \$10,000 or more than \$250,000 conditioned on the performance of all agreements or contracts with students. The new law permits cash or securities to be deposited in lieu of the surety bond.

### **◆ SB 2510: License Bonds**

**INTRODUCED:** 02/11/2010

**LINE ITEM:** 05/15/2010

SB 2510 revises several license bond requirements. The new law eliminates the existing exemption for plumbers employed by master plumbers from the license bond requirements. Plumbers must post a minimum \$25,000 license bond under current law. The new law also provides that the current bond required for manufactured home installers, residential roofers and sign installation contractors must be a "biennial" surety bond. Current law requires a \$15,000 license bond for residential roofers and a \$2,500 license bond for manufactured home installers.

Further, the new law adopts new standards to regulate mortgage loan originators pursuant to new federal requirements. Mortgage loan originators must be licensed and covered by a surety bond, either by posting one or through their employer's bond if they are the employee or exclusive agent of a person subject to the bonding requirements. The bond must provide coverage for all mortgage loan originators and be in an amount that reflects the dollar amount of loans originated. The Commissioner of Commerce will determine the amount required.

The new law also revised the existing financial requirements for residential mortgage loan originators to obtain a license. Prior law required mortgage loan originators to be licensed and

post a minimum \$50,000 surety bond or irrevocable letter of credit. Originators also can maintain a minimum net worth of \$250,000 or be approved as a mortgagee by the U.S. Department of Housing and Urban Development or the Federal National Mortgage Association. Instead, the new law provides that mortgage loan originators must post a \$100,000 surety bond that covers all mortgage loan originators that are employees or independent agents of the licensee. Upon renewal, the bond must be in an amount that reflects the licensee's total dollar amount of the closed residential mortgage loans originated in Minnesota. The bond amounts will have to be according to the following schedule:

<b>Dollar Amount of Loans</b>	<b>Bond Amount</b>
\$0 to \$5 million	\$100,000
\$5,000,000.01 to \$10 million	\$125,000
\$10,000,000.01 to \$25 million	\$150,000
Over \$25 million	\$200,000

The new law became effective the day after enactment.

◆ **SB 2839: License Bond—Consumer Collection Agencies**

**INTRODUCED:** 02/25/2010

**ENACTED:** 05/25/2010

SB 2839 increases the bond required of consumer collection agencies from \$20,000 to \$50,000 plus an additional \$5,000 for each \$100,000 received from debtors in Minnesota in the prior year. The bond cannot exceed \$100,000. This is effective for bonds obtained or renewed after January 1, 2011.

**MISSOURI**

◆ **HB 1692: License Bond—Real Estate Appraisal Management Companies**

**INTRODUCED:** 02/11/2010

**STATUS:**

05/25/2010 To Governor.

**POSITION:** Support—New Bonding Opportunity

HB 1692 would require real estate appraisal management companies to post a \$20,000 surety bond in connection with registration. The details of the bond requirements will be determined through regulations that the Missouri Real Estate Appraisers Commission has been directed to adopt. Originally, similar legislation would have required a \$250,000 bond. SFAA, AIA and the local surety association worked with the bill sponsor on the bond amount.

◆ **HB 2058: Release of Lien Bond**

**INTRODUCED:** 02/08/2010

**STATUS:**

05/25/2010 To Governor.

**POSITION:** Support—New Bonding Opportunity

HB 2058 provides for liens on residential real estate. The bill provides for the release of the lien if a bond for not less than 1.5 times the amount of the lien claim was posted.

◆ **SB 630: Release of Lien Bond**

**INTRODUCED:** 01/12/2010

**STATUS:**

05/25/2010 To Governor.

**POSITION:** Support—New Bonding Opportunity

SB 630 would provide requirements for rental agreements between real property owners and manufactured homeowners. If the manufactured homeowner failed to pay the rent due on the real property on which the manufactured home was located, the real property owner could place a lien on the abandoned manufactured home. The homeowner would be able to post a release of lien bond in the form of a surety bond, cash or other security in an amount equal to the rental charges due and those that accrued during the proceedings concerning the rent owed. The bond would secure the payment of the rent if the manufactured homeowner did not prevail.

## **NEW HAMPSHIRE**

◆ **HB 660: License Bond—Life Settlement Providers and Brokers**

**INTRODUCED:** 01/08/2009

**STATUS:**

05/19/2010 To Governor.

**POSITION:** Support—New Bonding Opportunity

HB 660 is the NAIC model act for life settlement providers and brokers. A license bond in the amount of \$250,000 would be required for providers and brokers. Surety bonds are among the financial instruments acceptable to fulfill this requirement.

◆ **HB 1519: Miscellaneous Bond—Meals and Rentals Operators**

**INTRODUCED:** 01/06/2010

**ENACTED:** 05/18/2010

HB 1519 repeals the \$5,000 surety bond requirement for meals and rentals operators. The bond was required to secure the payment of the applicable taxes. Originally, the bill would have established a risk assessment system for determining whether a bond would be required, which SFAA believed had adverse selection problems. The bill was substituted for a full repeal of the bond requirement, which also was under consideration under other legislation. The new law became effective upon enactment.

◆ **SB 56: Financial Assurance**

**INTRODUCED:** 01/08/2009

**ENACTED:** 05/18/2010

SB 56 directs the Commission to Study Issues Relative to Groundwater Withdrawals (Commission) to study of the amount of financial responsibility that would be necessary for large withdrawals of groundwater. The Commission must consider potential damage to the environment and nearby wells, including unreasonable reductions in well capacity or contaminant migration from off-site sources. Originally, the bill provided that a financial instrument would have been required, including “bonding or insurance,” in at least the amount of \$1 million. The financial instruments would have been for environmental damages, including groundwater contamination and unreasonable reductions in well capacity. The bill was converted into a study measure in the Senate. The new law became effective upon enactment.

◆ **SB 367: Miscellaneous Bond—Gaming Operators**

**INTRODUCED:** 01/06/2010

**STATUS:**

05/19/2010 To Governor.

**POSITION:** Support—Advising on Availability Problems

SB 367 would require game operators that adopt an account wagering plan on any pari-mutuel pool to post a surety bond in an amount not to exceed \$300,000. The bond would be conditioned on the faithful payment of all prizes. Existing law already requires a surety bond for the same amount conditioned on the operator's compliance with the law and the compensation of all persons the operator is obligated to pay. The bill also provides that this existing surety bond would have to cover the payment of unclaimed ticket money and vouchers.

**NEW JERSEY**

◆ **AB 2219: Public Officials**

**INTRODUCED:** 02/11/2010

**STATUS:**

03/15/2010 Passed Assembly. To Senate.

**POSITION:** Support

AB 2219/SB 1428 would permit surety companies to issue blanket bonds for municipal treasurers and tax collectors, and municipal court judges and administrators. In 2006, sureties were eliminated from this market. The law requires treasurers, tax collectors, and municipal court judges and administrators to obtain blanket bonds from a state joint insurance fund (JIF). Under prior law, public officers and directors could be covered under individual or blanket bonds and either sureties or the JIF could write these bonds. Under the law enacted in 2006, a surety may provide blanket bonds in lieu of an individual bond for any officer or employee required to be bonded, but not for treasurers, tax collectors, and municipal court judges and administrators. The JIF, however, is permitted to write blanket bonds for officers and employees, as well as treasurers, tax collectors, and municipal court judges and administrators. AB 2219/SB 1428 would reverse the law enacted in 2006. SFAA, AIA and CNA Surety are working to enact this legislation.

◆ **AB 2360: Captive Insurers**

**INTRODUCED:** 02/25/2010

**STATUS:**

05/06/2010 From Assembly Committee on Financial Institutions and Insurance as Amended.

**POSITION:** Oppose—Seeking Exclusion for Surety and Fidelity

AB 2360 would regulate captive insurance companies. Of note, the bill would permit captives to write fidelity and surety insurance, among other lines. SFAA, AIA and CNA Surety worked together and obtained an exclusion for surety from the lines of business that a captive would be permitted to write. The bill still would allow captives to write fidelity bonds. AIA state counsel has approached the New Jersey Insurance Department for support for exclusion of surety and fidelity bonds.

◆ **SB 1287: Public Officials**

**INTRODUCED:** 02/08/2010

**STATUS:**

05/20/2010 To Governor.

**POSITION:** Support

SB 1287 provides that local school boards without a treasurer of school moneys must require the secretary of the school board to carry out the duties of the treasurer. The bill would require the secretary post a bond. The school board would determine the amount and the surety required for the bond. Existing law already requires the secretary of the board to post a surety bond in the amount of at least \$2,000, conditioned on the faithful performance of duties of the office. The law provides that the school board may “accept as surety a corporation authorized to be surety under the laws of [New Jersey].” Further, the bill provides that if there is no treasurer, the secretary would not be required to post an additional bond if he or she also is an officer of the municipality, which constitutes the district, if the bond he or she has given guaranteeing the faithful performance of his or her municipal duties also covered and secured the faithful performance of his or her duties as secretary. A certificate of coverage with sufficient amounts for both the municipal and the board position would have to be certified to the local school board.

◆ **SB 1651: License Bond—Foreclosure Consultants**

**INTRODUCED:** 01/12/2010

**STATUS:**

03/11/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 1651 would require foreclosure consultants to post a surety bond in the amount that the Director of the Division of Consumer Affairs prescribed by regulations. Such consultants would not include banks, savings banks, savings and loan associations, credit unions, or other federally insured financial institutions, or insurance companies. Also exempted would be those licensed under the "New Jersey Licensed Lenders Act," and those licensed as a real estate broker, broker salesperson, or salesperson.

## **NEW YORK**

◆ **Multiple Bills: Tax and Costs Bonds**

In recent years, New York has considered a number of bills that would require a bond in connection with review processes for tax assessments made by local authorities. Anyone who disputes the tax or seeks a refund is required to deposit an amount equal to the tax and any penalties due, along with a surety bond from a state-licensed surety for the costs of the proceeding. The petitioner has the option of posting a bond in the amount of the taxes, including interest and penalties, in addition to the costs bond. Anyone disputing a denied refund claim is subject to the same bond requirements described above.

**Hotel/Motel Occupancy Tax: SB 1180** (Village of Rye Brook) has passed the Senate Committee on Investigations and Government Operations. **SB 6651** (Town of Greenburgh) also has passed the Senate Committee on Investigations and Government Operations. **AB 11278/SB 7948** (Town of Allegany): Introduced.

◆ **AB 4771: License Bond—Contractors in New York City**

**INTRODUCED:** 02/06/2009

**STATUS:**

04/12/2010 Amended in Assembly Committee on Cities.

**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments—Bond Coverage of Wages and  
Direct Actions Permitted

AB 4771 would regulate contractors in New York City. The bill would require licensure, and it would authorize the City Contractors Licensing Board to require general and specialty contractors to post a surety bond in an amount not less than \$5,000 from a surety company licensed in the State as a surety. The bill would condition the bond not only on compliance, but also on the payment of all the contractor's employees and other persons or entities due any wages. The bill would permit employees to bring direct actions on the bond for non-payment, as could any other person damaged or injured by a wrongful act of the contractor. The bill provides however, that wage claims would take priority over any others. The recent committee amendments did not change the bonding provisions.

**AB 10275: Miscellaneous Bond**

**INTRODUCED:** 03/16/2010

**STATUS:**

03/16/2010 Introduced.

**POSITION:** Neutral

AB 10275 would regulate publishers of commercial directories (white and yellow page listings) that provide a listing of service providers and enter into a contract with the provider to guarantee the services offered. The publisher would have to obtain a "group policy" providing "surety coverage" in an amount equal to \$5,000 per contract. The bill also would allow the publisher to obtain a limited license as an insurance agent. The publisher's license would be limited to providing "surety coverage which guarantees the performance of the service providers listed in the commercial directory." SFAA does not think that this bill really impacts surety, but rather is an attempt to assure that this product is regulated and sold as insurance in New York. It would be similar to the requirements in place in some states that car rental agencies that sell collision damage waivers (CDWs) with their rental contracts sell such coverage in compliance with the insurance laws and regulations.

◆ **AB 10491/SB 7343: License Bond—Immigration Assistance Providers**

**INTRODUCED:** 02/17/2009

**STATUS:**

04/02/2010 Introduced.

**POSITION:** Support—Enforces Bond Requirement

AB 10491/SB 7343 would require the Secretary of State to enforce the existing license bond requirements for immigration assistance providers, as well as the licensing requirements. Current law requires immigration service providers to post a surety bond, contract of indemnity, or an irrevocable letter of credit in the amount of \$50,000. The bill would prohibit acting as a provider or providing any such information or assistance without a license or a bond. The Secretary of

State would be required to publish information on the website for the Department of State on immigration service providers who have met these requirements.

**AB 10769/SB 6444 and SB 7597: License Bond—Resale of Entertainment Tickets**

**INTRODUCED:** 04/20/2010

**STATUS:**

05/04/2010 Amended in Assembly Committee on Codes.

**POSITION:** Support—AB 10769/SB 6444

Seeking Amendments—SB 7597

AB 10769 originally would have repealed the existing license bond requirement for ticket resellers and would have required a cash deposit in a trust account instead. Current law requires a \$25,000 surety bond, which is conditioned on compliance with the law and that the licensee will pay all persons suffering damages as a result of the licensee's violation of the law. SFAA and CNA Surety worked on the bill to preserve the bond requirement. AB 10769 now would eliminate the direct action provisions on the bond and provides the Secretary of State the authority to determine how the proceeds of the bond would be distributed; and **SB 6444** recently was substituted to include these provisions. **SB 7597** still provides for the repeal of the bond requirement, however, and it has passed the Senate Committee on Investigations and Government Operations.

◆ **AB 11110/SB 7265: License Bond—Process Servers**

**INTRODUCED:** 05/17/2010

**STATUS:**

05/17/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

AB 11110/SB 7265 would require process servers to be licensed. If the licensee employed 20 or more persons, a surety bond, contract of indemnity or an irrevocable letter of credit for \$75,000 would be required. The bond would be conditioned on compliance with the law and the payment of any fines, fees or penalties owed. The surety's aggregate liability would be limited to the face amount of the bond. Surety companies would have to 30 days notice prior to cancelling the bond. **SB 7265** has not moved since it was introduced.

◆ **SB 5110: Public Officials—Municipal Reciprocal Insurers**

**INTRODUCED:** 04/27/2009

**STATUS:**

04/21/2010 Passed Senate. To Assembly.

**POSITION:** Oppose

SB 5110 would permit statewide municipal reciprocal insurers to issue public official bonds. Existing law allows such reciprocals to provide any one or more of the basic kinds of insurance except workers compensation, employers' liability, fidelity, surety, credit and marine and inland marine insurance. The bill essentially carves out an exception to the prohibition against writing surety and fidelity bonds. SFAA worked with AIA last year to defeat similar legislation, which would have permitted the New York Mutual Insurance Reciprocal (NYMIR) to write public official bonds. SFAA questioned how NYMIR would perform the prequalification function that makes surety bonding unique among insurance products. SFAA is working with the AIA to

defeat this bill in the Assembly.

◆ **SB 5203: Insurance & Bonding—Public Vessels**

**INTRODUCED:** 02/05/2009

**STATUS:**

04/13/2010 From Senate Committee on Codes.

**POSITION:** Neutral

SB 5203 would require every public vessel certified to carry passengers and operated on the navigable waters of the State to be covered by a corporate surety bond or an insurance policy with coverage of at least \$1 million per occurrence for injury to or death of any person resulting from the negligent operation of the vessel.

◆ **SB 6163: Capture and Storage of Carbon Dioxide Program**

**INTRODUCED:** 09/10/2009

**STATUS:**

03/16/2010 From Senate Committee on Rules.

**POSITION:** Neutral

SB 6163 provides for the sequestration of carbon dioxide (CO<sub>2</sub>). The bill would regulate the capture, injection and storage of CO<sub>2</sub> in underground injection wells. The operator would have to obtain a permit and post a bond that is acceptable to the Department of Environmental Conservation (Department) prior to drilling any wells, which would be conditioned on the proper plugging of the well. The bond would have to be in an amount based on the written cost estimates of this process. Cash and other financial instruments also would be accepted in lieu of a bond. Failure to maintain a bond or other acceptable financial security would be a breach of the operator's plugging responsibilities and would entitle the Department to claim the proceeds of the bond or other financial security.

Operators would have to furnish another bond or security prior to the injection of any CO<sub>2</sub>. The bond or other security would have to be maintained for 10 years after the injections had ceased. The bond would be conditioned on the operator's observation and monitoring responsibilities for the well as specified in the required permit. This bond also would have to protect against pollution, invasion, or the escape, discharge, seepage or migration of captured carbon.

◆ **SB 7312: License Bond—Pre-paid Calling Services**

**INTRODUCED:** 03/29/2010

**STATUS:**

03/29/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 7312 would regulate pre-paid calling services, requiring providers of such services to post a surety bond or other security in the amount of \$50,000 in connection with obtaining a certificate to operate in the State. The Public Services Commission could require a larger bond if the provider has a record of bona fide consumer complaints for misconduct. The bill also would require distributors of pre-paid calling cards to post a surety bond or other security in the amount of at least \$10,000. If the distributor's annual sales exceeded \$1 million, then the bond would have to be in the amount of \$25,000.

◆ **SB 7317: License Bond—Uniform Debt Management Services Act**

**INTRODUCED:** 03/29/2010

**STATUS:**

03/29/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments on “A” Rate Surety Requirement

SB 7317 would enact the Uniform Debt Management Services Act (Act) of the National Conference of Commissioners on Uniform State Laws (NCCUSL). The bill would require a debt-management service provider to register and post a \$50,000 surety bond. The Superintendent of Banks could increase or decrease the required amount of the bond based on certain conditions of the provider. The bill would require the surety issuing the bond to be "A" rated from a nationally recognized rating service and licensed in the State. The bond runs to the State for its benefit and individuals who enter into agreements with the provider. Payment would be conditioned on noncompliance with the law. The bond would have to be effect for an additional two years after the registrant stops performing debt-management services in New York. A certificate of insurance or a letter of credit would be permitted in lieu of a surety bond. SFAA has written a letter to the bill sponsor asking that the “A” rating for the surety be eliminated. SFAA is concerned about the insurance alternative since it does not specify what kind of insurance would be acceptable in lieu of a bond.

**NORTH CAROLINA**

**HB 1717: Public Officials**

**INTRODUCED:** 05/17/2010

**STATUS:**

05/17/2010 Introduced.

**POSITION:** Seeking Amendments

HB 1717 would increase the bond amount for local board members of the Alcohol Beverage Control Commission (ABC) and the employees that are designated as the general manager and financial officer of the local board. The current bond amount is not less than \$5,000 for each board member and the bill would increase that to not less than \$100,000. According to the statute, each local board consists of three persons. The bill also would increase the bond required of each ABC liquor store manager from \$5,000 to \$100,000. SFAA is working with AIA to address this enormous increase in the bond amount.

**HB 1977/SB 1207/SB 1438: Public Officials**

**INTRODUCED:** 05/26/2010

**STATUS:**

05/26/2010 Introduced.

**POSITION:** Support

HB 1977/SB 1207/SB 1438 would revise the current bond requirement for the members of the New Hanover County Alcoholic Beverage Control Board (Board). Current law requires a \$10,000 bond for each member of the Board. The bill would require a minimum \$5,000 bond instead, which would have to be from a corporate surety. Current law does not specify that a corporate surety is required. The bill also would specify that the bond secures the faithful performance of the duties of office. The bill would allow anyone who does not handle the

Board's funds to be exempted from the bond requirement. A larger bond could be required for those who do handle the Board's funds. Finally, the bill would permit blanket bonds to be obtained in lieu of individual bonds.

## **OHIO**

### **◆ HB 398: Prohibition of Bond Requirement**

**INTRODUCED:** 12/16/2009

**ENACTED:** 05/27/2010

HB 398 provides procedures for long term care facility operators that terminate or close their operations, including procedures for handling any debt to the U.S. Centers for Medicare and Medicaid Services through successor liability agreements. The new law prohibits such agreements from requiring the new facility operator to post a surety bond.

### **◆ HB 490: Uniform Commercial Code**

**INTRODUCED:** 01/07/2009

**STATUS:**

05/27/2010 In House. To Third Reading.

**POSITION:** Neutral

HB 490 would amend Ohio's Uniform Commercial Code to conform to the Restatement of the Law of Surety by the American Law Institute. Among the several revisions, a surety would be further defined to include any "other secondary obligor" in addition to the existing definition as a "guarantor."

### **HB 519: Miscellaneous Bonds—Casinos**

**INTRODUCED:** 05/17/2010

**STATUS:**

06/03/2010 To Governor.

**POSITION:** Support—New Bonding Opportunity

HB 519 would create the Ohio Casino Control Commission (Commission) and authorize casino gaming in the State. The bill would require casino operators to post a \$1 million surety bond conditioned on compliance with the applicable laws and regulations. The bond would have to be from a surety licensed to do business in the State. The surety's total aggregate liability would be limited to the amount specified in the bond. The surety would have to give ten days notice to cancel the bond for nonpayment of premium and would have to give 30 days notice to cancel for any other reason. Further, the Executive Director of the Commission would have to post a \$25,000 surety bond conditioned on the faithful performance of the duties of his or her office. The bond would have to be issued by a surety authorized to do business in the State; and it may be an individual, schedule or a blanket bond. Each member of the Commission would have to post a \$10,000 bond as well. Finally, the bill would provide procedures for placing a casino into a conservatorship under certain conditions. The conservator would have to post a surety bond to secure the faithful performance of his or her duties. The Commission would determine the amount required.

**◆ SB 165: Miscellaneous Bond—Inactive Oil and Gas Wells**

**INTRODUCED:** 09/01/2009

**ENACTED:** 03/31/2010

SB 165 provides procedures for obtaining a temporary inactive status for an oil or gas well. Upon the third renewal of this status, a surety bond of not more than \$10,000 per inactive well is required. Further, the law provides for an additional bond to be required in connection with the forfeiture of bond required under existing law for oil and gas wells. Bonds are subject to forfeiture under current law for failures to properly restore or plug well according to the law's requirements, or for failure to meet the conditions of the permit. If the bond is forfeited, the new law provides that the person forfeiting the bond may be required to post a new surety bond in the amount of \$15,000 for a single well, \$30,000 for two wells and for \$50,000 for three or more wells.

**SB 270: Permit Bonds—Dam Construction Projects**

**INTRODUCED:** 05/13/2010

**STATUS:**

06/03/2010 To Governor.

**POSITION:** Neutral

SB 270 would establish a dam construction permit pilot program that would create special permit and bonding requirements for eligible projects. Such projects would be defined as "upground" reservoirs that have construction costs exceeding \$40 million. Only one project could be selected for the pilot program. The bill would permit the Chief of the Division of Soil and Water Resources (Chief) to accept a surety bond or other security for the project that is less than the bond required under existing law, which provides that the bond must be in an amount equal to 50% of the estimated cost of the project. The permit applicant would have to demonstrate a lower cost to mitigate a potential failure of the project during its construction or the first filling of the reservoir.

Further, the Chief could accept incremental surety bonds or other security deposits over the course of the construction period for the project. The permit applicant would have to demonstrate that these incremental bonds would be sufficient to mitigate a potential failure during each phase of the construction of the project. The phased surety bond schedule would have to be a condition of the permit issued for the project.

**OKLAHOMA**

**◆ HB 2973: Financial Security**

**INTRODUCED:** 02/01/2010

**STATUS:**

05/24/2010 To Governor.

**POSITION:** Neutral

HB 2973 would require the owner of a wind facility to provide financial security after its 15th year of operation to secure its decommissioning. Surety bonds would be accepted to meet this requirement.

◆ **HB 3393: School Bond**

**INTRODUCED:** 02/01/2010

**STATUS:**

05/27/2010 To Governor.

**POSITION:** Support—New Bonding Opportunity

HB 3393 is a school choice measure for students that would provide scholarships for students with disabilities to attend private schools. The bill would require private schools participating in the program to show financial soundness with certified financial statements, a surety bond or a letter of credit. The bond or letter of credit would have to be in an amount equal to the scholarship funds received for any quarter.

◆ **SB 1903: Miscellaneous Bond—Home Service Contracts**

**INTRODUCED:** 02/01/2010

**STATUS:**

05/28/2010 To Governor.

**POSITION:** Support—New Bonding Opportunity

SB 1903 would require home service contract providers to meet certain financial requirements, including posting a surety bond or other security. The bond would have to be in an amount not less than 5% of the gross premium received, less claims paid, on the sale of the service contract for all service contracts issued and in force in the State. The bond could not be less than \$25,000. A funded reserve account would be required in addition to the bond. In lieu of the bond and the reserve account, the service contract provider would have to maintain a net worth or stockholders' equity of \$25 million, either on its own or together with its parent company.

**PENNSYLVANIA**

◆ **HB 325/ HB 2435: Tax Bonds**

**INTRODUCED:** 02/10/2009

**STATUS:**

05/24/2010 From House Committee on Appropriations. Reported as Amended.

**POSITION:** Support—Bonding Opportunity

HB 325/HB 2435 would impose a tax on the extraction of natural gas in Pennsylvania. The bill would authorize the Department of Revenue (Department) to require a surety bond from nonresident natural persons, or from any foreign entities, not authorized to do business or not having an established place of business in the Commonwealth. The bond would secure the payment of the tax and any penalties that may become due, and the Department would determine the amount required. The Department also could require a bond from any person petitioning for reassessment of any tax assessment over \$500 or where the Department believes the ultimate collection of the tax is in jeopardy. Further, the Department could require a bond from any person who filed a return or made payment more than 30 days late on three or more occasions within a 12-month period. Cash or securities would be accepted in lieu of surety bonds in any of these bond requirements. **HB 2435** has passed the House Committee on Appropriations.

◆ **HB 1187: Athlete Agents**

**INTRODUCED:** 04/03/2009

**STATUS:**

04/13/2010

From Senate Committee on State Government. Reported as Amended.

**POSITION:**

Oppose

HB 1187 would exempt athlete agents from the current surety bond requirements if they meet the following conditions: the agent 1) only represents professional athletes; 2) currently is registered with a professional sports organization or association; 3) does not enter into agency contracts with student athletes; and 4) does not recruit or solicit student athletes to enter into such a contract either directly or indirectly. Existing law requires all agents to post a bond in at least the amount of \$20,000.

◆ **HB 2213: Permit Bond—Oil & Gas Wells in the Marcellus Shale Formation**

**INTRODUCED:** 01/20/2010

**STATUS:**

05/25/2010

From House Committee on Environmental Resources and Energy. Reported as Amended.

**POSITION:**

Neutral—Advising on Availability Issues

HB 2213 has been amended to overhaul the current bonding requirements for oil and gas wells. Current law requires a bond in the amount of \$2,500 per well or a \$25,000 blanket bond that covers all wells that the permit holder operates in Pennsylvania. The bill originally would have increased the bond amount required in connection with a permit for oil and gas wells to \$150,000 per well for Marcellus Shale wells that use the hydraulic fracturing process for drilling, and \$12,000 per well for all other oil and gas wells. The blanket bond would have had to be \$240,000 under the bill's provisions. Bonds can be adjusted after two years under current law if a larger bond is necessary under the current law's conditions. The bill now would provide a schedule for the bond amounts based on the number of wells that are operating in the State and their depth below the surface as follows:

Wells less than 2,500 feet in depth:

<b>Wells</b>	<b>Bond Amount</b>
Up to 25 wells	\$2,500 per well, not to exceed \$35,000
26-50 wells	\$35,000, plus \$2,500 per well, not to exceed \$60,000
51-100 wells	\$60,000, plus \$2,500 per well, not to exceed \$100,000
More than 100 wells	\$100,000, plus \$2,500 per well, not to exceed \$250,000

Wells less between 2,500 feet and 5,000 feet in depth:

<b>Wells</b>	<b>Bond Amount</b>
Up to 25 wells	\$5,000 per well, not to exceed \$70,000
26-50 wells	\$70,000, plus \$5,000 per well, not to exceed \$120,000
51-100 wells	\$120,000, plus \$5,000 per well, not to exceed \$200,000
More than 100 wells	\$200,000, plus \$5,000 per well, not to exceed \$500,000

Wells over 5,000 feet in depth:

<b>Wells</b>	<b>Bond Amount</b>
Up to 25 wells	\$12,500 per well, not to exceed \$220,000
26-50 wells	\$220,000, plus \$12,500 per well, not to exceed \$375,000
51-100 wells	\$375,000, plus \$12,500 per well, not to exceed \$625,000
More than 100 wells	\$625,000, plus \$12,500

**HB 2334: Real Estate Appraisal Management Companies**

**INTRODUCED:** 03/16/2010

**STATUS:**

03/16/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 2334 would require real estate appraisal management companies to register and obtain a \$20,000 surety bond or other security to secure the company's faithful performance of its obligations under the proposed law. The bill would permit direct actions on the bond, but the surety's aggregate liability would be limited to its penal sum. The State Board of Certified Real Estate Appraisers would be authorized to require a different bond amount through regulations.

**HB 2425: Financial Assurance—Private Schools**

**INTRODUCED:** 04/19/2010

**STATUS:**

04/19/2010 Introduced.

**POSITION:** Neutral

HB 2425 would revise the current financial requirements for private schools which must demonstrate evidence of financial responsibility or “surety” to reimburse students for unearned tuition if the school ceases to operation. Currently, the State Board of Private Licensed Schools (Board) determines the financial requirements for forms of security and the amount due through regulations. The bill would specify the requirements instead. The bill provides that the school could post a surety bond or participate in a Board-approved private “surety” fund. The bond would have to be for \$100,000 for an initial license. Upon renewal, the bond would have to be \$100,000 for licensees with less than \$500,000 in gross tuition collected. For schools with gross tuition collected in excess of \$500,000, the bond would have to be \$25,000 for each \$500,000 or portion thereof collected. The maximum bond amount for a renewal license would be \$200,000. The maximum bond amount would be subject to adjustment by the consumer price index.

**HB 2450: Professional Employer Organization**

**INTRODUCED:** 04/29/2010

**STATUS:**

04/29/2010 Introduced.

**POSITION:** Seek Amendments—Adverse Selection

HB 2450 would require PEOs to maintain a positive working capital. If the PEO does not have a positive working capital, the bill would permit it to post a surety bond, bonds of the United States, a letter of credit, or securities in an amount that would make up the deficiency plus \$100,000. The bond would secure the payment of any tax, wage, benefit, or other entitlement due to or with respect to a covered employee if the PEO does not make the payment when due. The

bill would require the surety company issuing the bond to possess a current A.M. Best Rating of "B+" or better or a Standard and Poor's rating of claims paying ability of "A" or better.

The bill also would provide that a "covered employee is not, solely as the result of being a covered employee of a professional employer organization, an employee of the professional employer organization for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation and employer's liability insurance carried by the professional employer organization unless the covered employee is included by specific reference in the professional employer agreement and applicable prearranged employment contract, insurance contract or bond." These provisions are based on model legislation adopted in other states.

◆ **SB 1071: License Bond—Short-term Lenders**

**INTRODUCED:** 08/10/2009

**STATUS:**

04/20/2010

In Senate Committee on Banking and Insurance: Public Hearing Held.

**POSITION:** Support—New Bonding Opportunity

SB 1071 would require short-term lenders to be licensed and post a \$100,000 surety bond. The bond would have to be from a surety company licensed in the Commonwealth and would be conditioned on compliance with the bill's provisions. The bill would make the bond subject to forfeiture and it would permit direct actions on the bond from consumers. The bill also would require the bond to contain a 30-day notice requirement for cancellation.

◆ **SB 1155: Public Officials**

**INTRODUCED:** 12/14/2009

**STATUS:**

05/05/2010

Passed Senate. To House.

05/25/2010

In House Committee on Local Government: Informational Meeting Held.

**POSITION:** Seeking Amendments

SB 1155 would streamline and revise the current law for bonding county officers and employees. There are a few provisions in the revisions that are of concern to SFAA, and we've asked AIA to address them if the bill is viable and is going to move. AIA still is in the process of determining whether this bill is viable. It is very early in the session in Pennsylvania.

Coverage under the bond is changed. Under current law, the required condition of coverage is the faithful performance of duties and faithful accounting of funds held or received. The obligation under SB 1155 is for the faithful "use, appropriation, accounting...of all moneys...and other property, which is required to be received, accounted for or held." That is, coverage is not just for funds actually received and held. SFAA questions if the funds are not received, but were required to be received, whether the officer responsible for it and must the bond cover it.

The bill also provides that a bond, blanket bond or "crime-fidelity insurance policy" could be provided to secure the faithful performance of their duties. Current law provides for a surety

bond or insurance. Under current law, however, persons other than the obligee/insured can make claims on the bond. While the bill now would permit blanket fidelity coverage, such coverage would not be available because of the third-party suits that the law allows.

Another change in the law would be the elimination of the specified bond amounts for each county office. Instead, the governing body of the county would have to develop a system for determining the amount required for the bond on an annual basis. The bond would have to be in an amount sufficient to protect against the risk of loss covered under the bill's provisions. The county's risk manager and any relevant agency of the Commonwealth could provide information to assist in determining the amount required. The bill would not eliminate the bond requirement.

The current amounts required under the County Code and Second Class County Code are as follows:

**Register of Wills:** \$30,000 for second-class counties; \$25,000 for third-class counties; \$20,000 for fourth-class counties; \$15,000 for fifth-class counties; \$10,000 for fifth-class counties; \$7,500 for seventh-class counties; and \$5,000 for eighth-class counties

**Sheriff:** \$60,000 for third and fourth-class counties; \$30,000 for fifth-class counties; \$20,000 for sixth-class counties; \$15,000 for seventh-class counties; and \$10,000 for eighth-class counties.

**Coroner:** \$15,000 for second-class counties; one-fourth of the bond amounts listed above for the sheriff for each other class of county.

**County Commissioner:** \$10,000 for second-class counties; \$7,500 for third-class counties; \$5,000 for fourth-class counties; \$4,000 for fifth-class counties; \$2,500 for sixth-class counties; \$2,000 for seventh-class counties; and \$2,000 for eighth-class counties.

**Recorder of Deeds:** \$20,000 for second-class counties; \$15,000 for third-class counties; \$10,000 for fourth and fifth-class counties; and \$5,000 for sixth, seventh and eighth-class counties;

**County Controller:** \$50,000 for second-class counties; \$20,000 for all other counties.

**Clerk of the Courts of Oyer and Terminer and General Jail Delivery and Courts of Quarter Sessions of the Peace:** \$10,000 for second-class counties only.

**Prothonotary:** \$40,000 for second-class counties only.

**County Treasurer:** \$200,000 for second-class counties; unspecified for all other for each other class of county.

**SB 1266: Public Officials—City Code**

**INTRODUCED:** 03/10/2010

**STATUS:**

03/10/2010            Introduced.

**POSITION:**            Seeking Amendments

SB 1266 would overhaul the Third Class City Code, including the general bond requirements for city officers and employees. Current law provides that the city council can require a bond to secure the faithful performance of the officer or employee's duties. The bill also would permit the council to obtain blanket bonds to cover the city's officers or employees, or the council could obtain insurance so long as it covered the same events of loss and insured the city against the same misconduct as the bond. The city council also could require an additional insurance policy for employees and officers that handle city funds. The policy would have to cover loss through robbery, burglary or larceny.

The bill would revise the current fidelity bond and insurance policy requirements for the city treasurer. Instead, the bill would permit the council to require two separate bonds. One bond would be conditioned on the treasurer's faithful performance of the duties of office, other than those as the city's tax collector. For this bond requirement, the bill would permit the city council to obtain an insurance policy in lieu of a bond. The insurance would have to provide the same coverage. The second bond would cover his or her duties as the collector of the city, county institution district and school taxes. The bill does not permit insurance in lieu of this bond.

Further, the bill would require a bond for the city treasurer's deputies and employees. All of the treasurer's appointees would have to be covered under a blanket bond. Current law requires a surety bond conditioned on the faithful performance of the duties of office. The city controller bond requirement would be revised to specify the bond's coverage further. Current law conditions the bond on the faithful performance of the controller's duties. The bond also would have to cover the accurate accounting and paying over of all funds that the city controller handles and the safekeeping paying over of all public funds entrusted to his or her care. The bill also would require deputy controllers, assistants and employees to be bonded. The Chief Fiscal Officer's deputy and any temporary deputy also would have to be bonded. All bonds would have to comply with the general requirements for city employees and officers noted above.

The bill would eliminate the bond required for the secretary of the city's board of health, the city's health officer, the city engineer and the city solicitor. The bill would repeal the law for nuisance complaints, which includes bond requirements for appeals to board and court decisions. Bonds required from the treasurer for surplus funds generated in connection with the sale of property or lands for delinquent taxes would be eliminated. The bond secures the funds left after the taxes and costs have been paid. The bill would repeal the bond required for for-profit parking lot operators. The bond protects the public from any loss of or damage to the vehicles in the operator's lot. The bill would repeal the city's eminent domain law, which includes a bond requirement from the city if the property owner does not agree to the amount the city will pay for any damages to the owner. SFAA is questioning the repeal of these bond requirements and is seeking amendments to preserve them.

**SB 1284: License Bond—Debt Management Services**

**INTRODUCED:** 03/24/2010

**STATUS:**

03/24/2010 Introduced.

**POSITION:** Support

SB 1284 would re-write the existing law for debt management service providers. Current law

requires a license bond "in an amount greater than the total amount of Pennsylvania consumer funds that the licensee will hold directly or in trust at any time." Instead, the bill would require a bond for \$50,000.

## **RHODE ISLAND**

### **◆HB 7543: License Bond—Towing Motor Carriers**

**INTRODUCED:** 02/24/2010

**STATUS:**

05/05/2010 Passed House. To Senate.

**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments on Bond Amount

HB 7543 would require a limited towing motor carrier to post a \$100,000 surety bond. The bond would be conditioned on the payment of any final judgments resulting from a claim for damages against the motor carrier, up to the maximum amount of damages specified in the bill. SFAA has suggested a \$25,000 bond amount.

### **◆HB 7606/SB 2632: Miscellaneous Bond—Discount Medical Plan Organizations**

**INTRODUCED:** 02/25/2010

**STATUS:**

05/18/2010 Passed House. To Senate.

**POSITION:** Support—New Bonding Opportunity

HB 7606/SB 2632 would require discount medical plan organizations to register and obtain a minimum \$100,000 surety bond. The bill would authorize the Health Insurance Commissioner to use the bond at his or her discretion to protect the financial interest of the organization's members, including refunds to consumers if the organization's registration was revoked. An insurance company licensed to do business in the State would have to issue the bond. Cash or securities also would be accepted in lieu of the bond. **SB 2632** has been held in the Senate Committee on Health And Human Services for further study.

### **◆HB 7608: Financial Assurance—Liquefied Natural Gas Carriers**

**INTRODUCED:** 02/25/2010

**STATUS:**

03/25/2010 In House Committee on Environment and Natural Resources: Committee Recommends Measure to Be Held for Further Study.

**POSITION:** Neutral

HB 7608 would regulate companies transporting liquefied natural gas (LNG) into or out of Rhode Island. Companies transporting LNG by using a vessel on the waters of the State would have to maintain a \$475 million bond for the benefit of the Rhode Island Bridge and Turnpike Authority for each transit of an LNG tanker under the Pell Bridge and a \$225 million bond for each transit under the Mt. Hope Bridge. A liability insurance policy of not less than \$1 billion also would be required. The bill is in response to a LNG facility that has been proposed in Massachusetts that could pose a significant safety risk to the region in the event of a natural disaster or a terrorist attack due to the volatility of the substance. SFAA does not believe that either the bond or liability insurance amounts are practicable.

◆ **HB 7766: Bad Faith**

**INTRODUCED:** 02/25/2010

**STATUS:**

03/16/2010

In House Committee on Judiciary: Committee  
Recommends Measure to Be Held for Further Study.

**POSITION:** Oppose

HB 7766 would allow any obligee, principal or claimant that is under any fiduciary bond filed under a probate court order to file a claim against the surety on the bond for wrongfully, and in bad faith, refusing to pay or settle a claim. The bill would allow the claimant to seek both compensatory and punitive damages, as well as reasonable attorneys' fees and costs of the suit. The bill is similar to legislation that SFAA has defeated in previous sessions in Rhode Island, but limited to probate bonds. When the was heard in the House Judiciary Committee, the AIA, along with representatives of Liberty Mutual and Travelers, attended the hearing and testified on behalf of the SFAA to point out the problems with the bill. The Committee has held the bill for study.

## **SOUTH CAROLINA**

◆ **HB 3790: License Bond—Mortgage Loan Originators**

**INTRODUCED:** 03/26/2009

**STATUS:**

05/26/2010

To Governor.

**POSITION:** Support

HB 3790 would require mortgage loan originators to comply with the new bonding requirements enacted in 2009. A surety bond covering the originator in an amount based on the loan origination volume is required. A bond in an amount ranging from \$50,000 to \$150,000 is required for lenders and \$25,000 to \$55,000 for brokers. The originator can be covered under his or her employer's bond.

◆ **SB 337: Administrative Appeal Bond**

**INTRODUCED:** 01/28/2009

**STATUS:**

06/02/2010

To Governor.

**POSITION:** Support

SB 337 would revise the appeal bond required in connection with a court appeal to decisions of the Department of Health and Environmental Control that affirmed a denied application for a certificate of need. Current law requires a bond in the amount of \$20,000, or 5% of the total cost of the project, whichever is greater. The bill would change it to 5% of the project's total cost, or \$100,000, whichever is greater. The bill would cap the bond at \$1.5 million.

## **TENNESSEE**

◆ **HB 3191: License Bond—Real Estate Appraisal Management Companies**

**INTRODUCED:** 01/27/2010

**ENACTED:** 05/26/2010

HB 3191 requires real estate appraisal management companies to register and post a \$50,000 surety bond. The new law provides that the details concerning the bond would be determined by regulation. The new law became effective upon enactment for the purposes of adopting such

rules, but the registration requirements will not be effective until July 1, 2011.

◆ **HB 3688: School Bond**

**INTRODUCED:** 01/28/2010

**STATUS:**

04/07/2010 From House Committee on Government Operations:  
Recommend Passage.

**POSITION:** Support—New Bonding Opportunity

HB 3688 is a school choice measure that would create a scholarship program for low-income students. Non-public schools participating in the program would be required to demonstrate their financial viability if they would receive more than \$50,000 in scholarship funds during the school year. The bill would allow this to be done through a surety bond in an amount equal to the aggregate amount of scholarship funds to be received during the school year, or financial statements demonstrating the school's ability to repay the funds received.